

# **NEGOTIATED AGREEMENT**

**BETWEEN**

**CALIFORNIA MEDICAL DETACHMENT  
PRESIDIO OF MONTEREY  
ARMY HEALTH CLINIC**



**AND**  
**AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES, AFL-CIO  
LOCAL 1263**

## TABLE OF CONTENTS

<u>Article</u>	<u>Page No.</u>
PREAMBLE.....	1
<b>Article 1</b> <b>UNION RECOGNITION AND COVERAGE OF THIS AGREEMENT...</b>	<b>3</b>
<b>Article 2</b> <b>MANAGEMENT RIGHTS.....</b>	<b>4</b>
<b>Article 3</b> <b>EMPLOYEE RIGHTS.....</b>	<b>5</b>
<b>Article 4</b> <b>EMPLOYEE NOTICES.....</b>	<b>10</b>
<b>Article 5</b> <b>NEW EMPLOYEE ORIENTATIONS.....</b>	<b>12</b>
<b>Article 6</b> <b>UNION RIGHTS.....</b>	<b>13</b>
<b>Article 7</b> <b>OFFICIAL TIME.....</b>	<b>15</b>
<b>Article 8</b> <b>MID TERM NEGOTIATIONS.....</b>	<b>18</b>
<b>Article 9</b> <b>DUES DEDUCTIONS.....</b>	<b>20</b>
<b>Article 10</b> <b>GRIEVANCE PROCEDURE.....</b>	<b>23</b>
<b>Article 11</b> <b>ARBITRATION.....</b>	<b>26</b>
<b>Article 12</b> <b>DISCIPLINARY AND ADVERSE ACTIONS.....</b>	<b>29</b>
<b>Article 13</b> <b>PERFORMNCE MANAGEMENT.....</b>	<b>33</b>
<b>Article 14</b> <b>TRAINING AND CAREER DEVELOPMENT.....</b>	<b>35</b>

<b>Article 15</b>		
<b>MERIT PROMOTION.....</b>		<b>37</b>
<b>Article 16</b>		
<b>POSITION CLASSIFICATION.....</b>		<b>42</b>
<b>Article 17</b>		
<b>LEAVE.....</b>		<b>45</b>
<b>Article 18</b>		
<b>HOURS OF WORK.....</b>		<b>53</b>
<b>Article 19</b>		
<b>OVERTIME.....</b>		<b>55</b>
<b>Article 20</b>		
<b>DETAILS, REASSIGNMENTS AND VOLUNTARY CHANGES....</b>		<b>59</b>
<b>Article 21</b>		
<b>AWARDS.....</b>		<b>61</b>
<b>Article 22</b>		
<b>EQUAL EMPLOYMENT OPPORTUNITY.....</b>		<b>63</b>
<b>Article 23</b>		
<b>WITHIN GRADE INCREASES.....</b>		<b>68</b>
<b>Article 24</b>		
<b>RETIREMENT.....</b>		<b>70</b>
<b>Article 25</b>		
<b>HEALTH, SAFETY, AND WELLNESS.....</b>		<b>71</b>
<b>Article 26</b>		
<b>REDUCTION IN FORCE.....</b>		<b>78</b>
<b>Article 27</b>		
<b>MEDICAL DETERMINATIONS.....</b>		<b>83</b>
<b>Article 28</b>		
<b>TRANSIT SUBSIDY.....</b>		<b>86</b>
<b>Article 29</b>		
<b>CONTRACTING OUT/PRIVATIZATION.....</b>		<b>87</b>
<b>Article 30</b>		
<b>EMPLOYEE ASSISTANCE PROGRAM.....</b>		<b>90</b>

<b>Article 31</b>	
<b>TRAVEL/TEMPORARY DUTY (TDY).....</b>	<b>92</b>
<b>Article 32</b>	
<b>PARKING.....</b>	<b>94</b>
<b>Article 33</b>	
<b>EFFECTIVE DATE AND DURATION OF AGREEMENT.....</b>	<b>95</b>
<b>Appendix A</b>	
<b>Official Time Report.....</b>	<b>96</b>



## **PREAMBLE**

### **Section 1. Policy and Purpose**

In accordance with Title VII, Public Law 95-454, this Agreement is entered into by and between the U.S. Army California Medical Detachment (CMD), U.S. Health Services Command, Monterey, California, hereinafter referred as the "Employer", or "management" and the American Federation of Government Employees, AFGE (AFL-CIO), Local 1263 hereinafter referred to as the "Union" or "AFGE", and collectively known as the "Parties" pursuant to the statutory authority of the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the United States Code.

### **Section 2. Public Interest**

The Employer and the Union recognize that the public interest requires high standards of employee performance and the continued development and implementation of modern and progressive work practices to ensure efficient accomplishment of the operations of the Government. Therefore, effective collective bargaining is in the public interest. Consistent with this policy, through the Union, employees are guaranteed the right to participate in the formulation and implementation of personnel policies and practices related to their conditions of employment through collective bargaining. The parties mutually recognize that the Congress of the United States has expressed public policy that labor organizations and collective bargaining in civil service are in the public interest (5 USC 71).

### **Section 3. Definitions Applicable to this Agreement**

"Days" means calendar days, unless otherwise specified.

"Employee" means bargaining unit employee, unless otherwise specified.

"Position" means bargaining unit position, unless otherwise specified.

### **Section 4. Relationship to Laws and Government-Wide Rules and Regulations**

The parties will be governed by this Agreement, existing and future laws, existing and subsequently-enacted Government-wide rules and regulations implementing 5 U.S.C. 2302 in accordance with 5 U.S.C. Chapter 71, as well as existing laws, regulations, and policies published by appropriate authorities, to include the Department of Defense (DoD), the Department of the Army (DA), the Army Medical Department (AMEDD), and the Western Regional Medical Command (WRMC), in existence at the time the agreement was approved.

## **Section 5. Labor-Management Cooperation.**

A. In the interest of performing the Agency's mission, providing efficient and effective service to the public, and improving morale and the quality of work life for employees, the parties will strive for engaging with each other in a cooperative, collaborative manner. Partnership involves the design, implementation, and maintenance of a cooperative working relationship between Labor and Management through maximum pre-decisional involvement in order to achieve common goals. Management and Union leadership are committed to the principles upon which Partnership is based in order for this effort to be successful.

B. To make this partnership effective, in addition to the Commander's open door policy, the Union and CMD are encouraged to take advantage of the following meeting opportunities:

(1) The Union is invited to participate in the Battle Update Brief Command & Staff each month.

(2) The Union will also have the opportunity to discuss issues with all bargaining unit employees following the monthly All Staff meetings, which generally occur from 1300 through 1600 hours.

C. In everyday interactions management and employees will deal with each other in a professional manner and with courtesy, dignity, and respect.

## **Article 1**

### **UNION RECOGNITION**

The U.S. Army California Medical Detachment (CMD), hereinafter the Employer, recognizes the American Federation of Government Employees, AFGE AFL-CIO, hereinafter the Union, pursuant to a Certification of Representative, Case No. SF-RP-01-0018, dated May 15, 2001, and a letter from AFGE, Re: Delegation of Authority to AFGE Local 1263, dated June 12, 2008, as the exclusive representative of the bargaining unit described:

**Included:** All professional and nonprofessional employees of the California Medical Detachment of the Madigan Army Medical Center, U.S. Army Health Services Command, Monterey, California.

**Excluded:** Management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

**Article 2**  
**MANAGEMENT RIGHTS**

**Section 1. 5 U.S.C. 7106**

**A.** Subject to subsection (b) of this section, nothing in this article shall affect the authority of any management official of the Employer:

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the Employer; and

(2) in accordance with applicable laws:

(a) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(b) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(c) with respect to filling positions; to make selections from :

(i) among properly ranked and certified candidates for promotion;

or

(ii) any other appropriate source; and

(d) to take whatever actions may be necessary to carry out the agency mission during emergencies.

**B.** Nothing in this section shall preclude the Employer and the Union from negotiating:

(1) at the election of the Employer, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) Procedures which management officials of the Employer will observe in exercising any authority under this section; or

(3) Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

**Section 2.** The Employer retains all rights not explicitly negotiated in this agreement.

## Article 3

### **EMPLOYEE RIGHTS**

#### **Section 1. Right to Join and Assist the Union**

A. In accordance with 5 USC 7102, each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right-

- (1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and
- (2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

#### **Section 2. Right to Representation**

A. If an employee wishes to discuss a representational matter with a Union Representative, the employee shall, upon request, and with the supervisor's approval for both the employee and the union representative, have the right to contact and meet with the Union representative during the work day, ideally during a natural break in duties, or during the Union Steward's allotted Union time. If it is necessary for the employee to leave the building/work area to meet with the representative, the employee will be released from duties as soon as practical, consistent with patient care concerns.

B. An employee has the right to be represented by AFGE Local 1263 during any investigation by the employer that the employee reasonably believes may result in disciplinary action and the employee requests representation. If the employer reasonably believes that an examination, discussion, or interview may result in disciplinary action, the employer will remind the employee of their right to be represented before the discussion.

C. Management will notify employees via email of the Weingarten Rights annually.

**Section 3. Formal Discussions.** It is agreed that the Union representative shall be given the opportunity to be represented at all formal discussions between the CMD and the employee concerning any grievance, or any personnel policy or practices or matters affecting general working conditions of employees as defined in 5 U.S.C. In this regard, the Agency agrees to notify the Union designee as far in advance of the formal discussion as possible. The attendance of the designated exclusive representative will be acknowledged by the Agency at the start of such formal discussions. The Union's representative will be given the opportunity to ask questions on behalf of the employees and may make a brief statement as to the Union's position on the matter under discussion.

#### **Section 4. Personal Rights**

- A. The Agency will make every reasonable effort to conduct discussions between supervisors and employees, concerning criticisms of work, performance problems, discipline discussions, and counseling sessions in private. This section is meant to protect the privacy and dignity of employees by requiring managers to deal with negative or personal matters where other employees cannot hear whenever possible.
- B. Managers and employees will deal with each other in a professional manner and with courtesy, dignity, and respect.
- C. Employees are expected to comply with directives given by Management, and if they disagree with the directive, they may grieve later. Employees have the right to decline to perform his or her assigned task because of a reasonable belief that, under the circumstances the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established in accordance with 29 CFR 1960.46(a).
- D. In accordance with existing statutes and regulations, employees have the right to present their personal views on other than pending legislation to Congress, the Executive Branch or other authorities without fear of penalty or reprisal.
- E. CMD will provide lockable accommodations for the secure storage of appropriate personal belongings for employees. Any search of these accommodations must be done for good reason and in compliance with applicable laws and regulations. All employees are subject to installation security regulations and procedures. However, when reasonably possible, when management conducts a search the affected employee or his or her union representative will be given the opportunity to be present.
- F. CMD employees are not required to wear hospital scrubs at this time.
- G. Upon request, the Agency will instruct employees on filing a claim for reimbursement under 31 U.S.C. 3721 and will make forms available in case of loss.
- H. Employees shall have the right to direct and fully pursue their private lives off duty, without interference, coercion or discrimination at the worksite, and without imposition of discipline or adverse action, unless such pursuit impairs the efficiency of the service or brings discredit upon the agency.
- I. An employee's decision to resign or retire, if eligible, shall be made freely and in accordance with prevailing regulations. The Agency will provide retirement information to bargaining unit employees upon request. Employees can also access [www.abc.army.mil](http://www.abc.army.mil) for retirement information. The Agency will periodically provide retirement seminars. Information provided at the seminars may include, but is not limited to, retirement materials, legal services information, life and medical insurance information.

J. If an employee is facing termination, the employee may resign in accordance with prevailing regulations any time prior to the effective date of termination. The employee may withdraw his or her resignation prior to the effective date of resignation, as long as the position is uncommitted or unencumbered.

### **Section 5. Non Work Space**

A. The Agency will provide CMD employees with access to a break room in proximity to their work area. The break room area should include a sink, table and chairs. CMD employees are permitted to supply appliances, refrigerators, microwaves, etc., for communal use as long as it's consistent with safety regulations and Commander's prior approval. Access to this area should be for CMD employees only.

B. The Agency will provide employees with a designated smoking area in accordance with applicable rules and regulations.

### **Section 6. Space for Employee Fitness Activities**

Employees, at this time, may use the installation fitness center in accordance with installation policies.

### **Section 7. Official Records and Files**

A. The Official Personnel File (OPF) and Supervisory File (SF) is confidential, and shall be viewed only by the employee or by officials with a legitimate administrative need to know, and must be retained in a secure location. Employees and/or their authorized Union representatives who have been so authorized in writing have the right to examine any of their personnel records in the presence of a management official.

B. No personnel record may be collected, maintained, or retained at CMD except in accordance with law, higher authority regulation, and this Agreement. All personnel records are confidential, shall be known or viewed by officials only with a legitimate administrative need to know, and must be retained in a secure location. Except as specifically authorized by this Agreement, the employee's Supervisory File and Official Medical Record are the only authorized records which may be maintained at CMD other than the Official Personnel File (OPF).

C. Employees and/or their authorized Union representatives who have been so authorized in writing have the right to examine any of their records contained in the Supervisory File in the presence of a management official. The employee will be given a reasonable amount of duty time to examine and copy material placed in the Supervisory File. Employees should acknowledge by a signature receipt of any disciplinary or performance document placed in the Supervisory File. It is understood such acknowledgment of receipt does not constitute agreement with the contents.

D. Access to employee personnel records by the employee and/or the authorized Union representative will normally be granted within two (2) working days of the request if such records are maintained on the premises in which the employee is located. If the records are not so maintained, the Agency will immediately initiate action to obtain the records from their

location and will make them available to the employee as soon as possible. In the event it takes more than four (4) working days from the date of employee's request for relevant records, the grievance time limits will be stayed beginning on the fifth working day after the employee's request for records, and will end when the records are available.

E. Personal notes pertaining to an employee not qualifying as a system of records under the Privacy Act may only be kept and maintained by and for the personal use of the manager who wrote them. They shall not be shown or circulated to anyone, even the manager's secretary or another manager of the same employee. Personal notes shown or circulated to anyone must be maintained in accordance with this Section. These personal notes or memory joggers including e-mails shall not be used to circumvent timely disclosure to an employee, nor may they be used to retain information that should properly be contained in a system of records such as the Supervisory File.

F. All Supervisory Files should be screened and purged annually and outdated material should be removed and shredded. Material will be considered outdated if there is no re-occurrence of the incident or deficiency within a 12 month period.

G. Employees shall be notified and given a photocopy of any material placed in their OPF.

**Section 8. Whistle Blower Protection.** In accordance with the Whistle Blower Protection Act, employees shall be protected against reprisal for the disclosure of information which the employee believes evidences a violation of law, rule, or regulation, or evidences mismanagement, a waste of funds, or an abuse of authority.

### **Section 9. Timely and Accurate Compensation**

A. Employees are entitled to timely receipt of all compensation earned by them for the applicable pay period. The Agency will make every reasonable effort to ensure that employees receive their pay on the established pay date. It is understood that the employee is responsible for entering their hours worked, and any leave taken, for the applicable pay period in a timely manner into the Defense Medical Human Resources System – Internet (DMHRSi) at <https://dmhlsi.satx.disa.mil>.

B. If a bargaining unit employee fails to receive his or her pay on the established pay date, the Agency will, at the employee's request, initiate a special pay request. A special pay request normally will be issued within 3-5 working days.

C. If requested by the employee, the Agency will provide the employee with a letter verifying the amount of pay that was due for that pay period so that the employee can provide the information to their financial institution.

### **Section 10. Voluntary Activities**

Employee's participation in the Combined Federal Campaign, purchase U.S. bonds or in any bond drive, or organized blood drive is voluntary. Participation or nonparticipation will not advantage or disadvantage employees.

## **Section 11. Statutory Requirements**

Personnel management in CMD shall be conducted in accordance with the provisions of 5 U.S.C. 2301, Merit System Principles, and 5 U.S.C. 2302, Prohibited Personnel Practices.

## **Section 12. Visiting the Civilian Personnel Office**

Employees have the right to visit the Civilian Personnel Advisory Center (CPAC) during duty hours, after obtaining permission from the supervisor to leave the work center, provided the employee's duty hours coincide with the regular Office hours of the CPAC. During duty hours employees will make an appointment with their CPAC representative prior to being released to maximize the use of time during their visit. Employees who are visiting the CPAC during non-duty time do not need advance permission.

## **Article 4** **EMPLOYEE NOTICES**

### **Section 1. Notices**

- A. The Employer and the Union agree that the notices specified below will be released to all bargaining unit employees on an annual or as-needed basis.
- B. The Union will be provided copies of the notices affecting changes in working conditions prior to or upon release to the bargaining unit. Joint notices will be discussed, agreed upon and signed by both parties prior to release to the bargaining unit.
- C. Annual notices will be included as part of the new employee orientation provided by CMD to bargaining unit employees.

### **Section 2. Representational Rights**

In accordance with 5 USC 7114 (a)(2)(B) employees will be notified of their rights to Union representation on an annual basis. The notification will be sent to all employees in January of each calendar year. The notice will contain the statutory reference and language as follows:

- (1) Any examination of an employee in the unit by a representative of the Agency in connection with an investigation if
  - (a) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
  - (b) the employee requests representation.
- (2) In addition, employees will be notified of the right of the Union, in accordance with 5 U.S.C. 7114 (a) (2) (A), to be present at any formal discussion between one or more representatives of the Agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

### **Section 3. Standards of Conduct**

All new CMD employees are provided with a copy of the Standards of Conduct during New Employee Orientation.

### **Section 4. Limited Use of Government Equipment**

- A. CMD employees will be notified by the appropriate security agency the month prior to their birth month regarding the limited use of government computer access which requires certification for continued access. This notice will comply with all applicable provisions in other articles of this Agreement.

B. All federal employees will be able to access web-based personnel functions related to pay, retirement, health/life insurance, employment, and all the information that they need to make transactions outside of work.

C. To the extent the Agency is authorized to adopt, implement or change such policies under 5 U.S.C. 71 and this Agreement, CMD will notify the Union and bargain the impact and implementation over these matters in accordance with Article 8 of this Agreement.

## **Article 5**

### **NEW EMPLOYEE ORIENTATIONS**

#### **Section 1. Purpose and Policy**

An effective Orientation Program is an important component in achieving goals to establish and maintain an effective, diverse and motivated work force by ensuring that all employees receive training regarding their rights, benefits, roles and responsibilities as employees of the Agency. The Orientation Program will be administered in accordance with 5 CFR 410 and 5 CFR 724.203.

#### **Section 2. Frequency of Employee Orientation**

CMD will normally introduce new employees to the staff, to include CMD Union representatives, and receive clinic orientation during the first week of duty.

#### **Section 3. Notification and Information**

The Civilian Personnel Advisory Center (CPAC), or designee will determine the length, content and agenda of any training deemed necessary. The Union will be included on the agenda for purposes of addressing new bargaining unit employees. CPAC shall provide a copy of this Agreement as part of any employee orientation package that is distributed to CMD bargaining unit employees.

#### **Section 4. Union Participation**

- A. The Union will be entitled to address bargaining unit employees during the orientation session. The Union president or designee will be provided thirty (30) minutes for employee orientation. The Union official will be introduced by the Agency representative at each session orientation.
  
- A. The Union CMD representative will be afforded the opportunity to meet with new bargaining unit employees during their first week of employment, or shortly thereafter.

## **Article 6** **UNION RIGHTS**

### **Section 1. Exclusive Representative Rights**

- A. Consistent with 5 U.S.C. 71, as the exclusive representative of bargaining unit employees, the union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees or their representatives concerning any grievance, or any personnel policy or practice or other general condition of employment.
- B. The employer shall not restrain, interfere with, or coerce representatives of the Union in the exercise of their rights under 5 U.S.C. 71.
- C. CMD retains its right to communicate with employees on matters not inconsistent with Chapter 71 of Title 5 of the U.S.C. Consistent with 5 U.S.C. 71, the Agency will not communicate with employees regarding changes in conditions of employment without sufficient advance notice to the Union and fulfillment of its statutory and contractual obligations to the Union.
- D. If CMD elects to distribute written surveys or questionnaires to CMD employees, they will notify the Union in advance and provide a copy of the survey prior to distribution. CMD will provide the Union with the results of the survey. No survey will be conducted in such a manner as to be an attempt to negotiate with employees concerning matters which are properly bargainable.

### **Section 2. Office Space, Furnishings and Equipment**

- A. CMD will provide the Union with space, as needed, for conducting private conversations at no charge that is of sufficient size to allow the Union to effectively perform its representational functions, and to conduct meetings with up to ten (10) people present at a time. The Union will follow the same reservation and use procedures as all other users.
- B. The Agency will provide the Union with two lockable file cabinets and all keys. The Union will have access to telephone long distance calling capability, voice mail, caller ID, fax machine, printer, computer equipment which would allow access to the agency's network, e-mail, Intranet and Internet, photocopiers, internal mail (for other than mass mailings), TV and DVD player.
- C. When requesting access to non-CMD conference rooms and auditoriums for meetings, the Union will follow the same reservation and use procedures as all other users.

### **Section 3. Union Bulletin Boards**

- A. The Agency will provide the Union with two bulletin boards, no smaller than 24 X inches X 36 inches, exclusively for its use, which will be located in areas accessible to bargaining unit employees, locations to be determined by the Union.

B. The Union agrees that information posted on bulletin boards will not contain items relating to partisan political matters or propaganda against or attacks upon individuals. Information posted on bulletin boards by the Union relating to the facility, DOD or the Federal Government will not contain language that will malign the character of any individual Federal employee.

#### **Section 4. Communication**

##### **A. E-Mail**

(1) The Union may communicate with Agency officials, bargaining unit employees, neutral third parties, or members of the public via the Agency's e-mail system. The Union will comply with all security measures enforced on other users. E-mail shall not be used to solicit new members.

(2) The Union may send messages to more than one recipient at a time under the same restrictions that Agency management applies to itself.

(3) The Union will be judicious in the use of attachments to e-mail messages. Attachments will be kept to a reasonable size, with the understanding that some documents, like arbitrators' decisions, can be lengthy.

(4) Consistent with 18 U.S.C. 1913, electronic mail transmissions shall not be used to urge or promote lobbying activities by employees who do not serve as union representatives, either in support of or in opposition to any legislation or appropriation of Congress.

##### **B. Distribution of Literature**

Official publications of the Union, which may include newsletters, fliers, or other notices may be distributed on Agency property by Union representatives during approved official time or non-duty time. Distribution shall be accomplished so as not to disrupt operations. All such materials shall be properly identified as official Union issuances.

## **Article 7** **OFFICIAL TIME**

### **Section 1. Purpose**

A. The purpose of official time is to provide bargaining unit employees time in which to perform representational activities including statutory responsibilities during normal working hours, without charge to annual leave. This article provides an equitable process for the allocation and approval of official time and recognizes that the appropriate use of official time benefits both Management and Labor.

B. Official time at CMD shall be administered in accordance with Chapter 71 of Title 5 of the U.S.C.

### **Section 2: Representational Functions**

A. Official time may be used for representational purposes to include, but is not limited to:

- (1) prepare and present grievances at any step of the negotiated grievance procedure;
- (2) appear as a witness in any step of the grievance;
- (3) prepare and represent an employee or the Union in an arbitration hearing;
- (4) appear as a witness in an arbitration hearing;
- (5) prepare for and attend meetings scheduled by management;
- (6) represent the Union in formal discussions involving personnel policies, practices, working conditions, or grievances between bargaining unit employees and management;
- (7) investigate and prepare Union and employee grievances and appeals;
- (8) assist an employee when designated as his/her representative in preparing a response to a proposed disciplinary action;
- (9) prepare responses to management initiated correspondence;
- (10) assist an employee in preparing a response to any personnel action resulting from a directed fitness for duty examination;
- (11) maintain records in support of and prepare reports that are required of the Union by federal agencies;
- (12) participate in bargaining over changes in working conditions of bargaining unit employees which occur during the term of this Agreement.

(13) travel at the agency or to the Union Office to accomplish any of the above.

(14) act as a representative of the Union in presenting the view of the bargaining unit employees to Congress or their staff regarding desired legislation affecting the conditions of employment per Title 5, Chapter 7102 (1). However, DoD Union representatives may not use official time for that purpose regarding bills pending before Congress.

(15) other representational functions permitted by law.

(16) prepare and maintain financial records as required by the Department of Labor, Office of Labor Management Standards and Internal Revenue Service.

B. Official time is prohibited for any activities performed by any employee relating to the internal business of the Union including the solicitation of membership, elections of Union officials, and collection of dues.

C. The parties acknowledge that official time for employees and representatives is provided under separate authority to participate in statutory appeal procedures. This includes, but is not limited to, proceedings before the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission.

### **Section 3. Release Procedures for Official Time Use**

A. Union representatives who request to leave their assigned work area on official time to perform representational duties as authorized under this Agreement will obtain the permission of the immediate supervisor, or designee. The supervisor, or designee, will ordinarily approve the request unless the representative's absence would cause a disruption of patient care at that time. If the supervisor is unable to grant the request the parties will arrive at a mutually agreeable time for departure, normally within 2 working days. The Union official will be given a reasonable amount of time to inform any bargaining unit employees involved in the delay.

B. When the Union representative needs to leave the work site and their immediate supervisor is temporarily absent from the site, the next level supervisor will be contacted.

C. When a Union representative leaves the work site for representational purposes; he or she will notify the supervisor of the purpose of the absence, departure time, anticipated return time, and will notify his/her supervisor upon their return. Upon entering a work area to meet with an employee, the representative will advise the immediate supervisor of his or her presence, the employee to be contacted, and the estimated duration of the meeting. When these discussions take longer than originally anticipated, both employees will contact their supervisors telephonically to notify them of the need to extend the anticipated return time.

### **Section 4. Allocation of Official Time**

It is recognized that effective labor-management relations promote efficient mission accomplishment and are in the best interests of both the Union and the Employer. Accordingly, two Union officials will be granted one hour of official time per week for the performance of

representational activities as needed. If additional official time for representational duties is required, the Union representative will request the official time from their immediate supervisor or designee. Official time shall be approved without charge to leave or loss of pay. Normally the preferred time to conduct official Union duties will be between 1500 hours through 1600 hours and should not compromise patient care.

### **Section 5. Accounting for Official Time**

To account for the total hours and usages spent by the Union representatives on Approved Union Activities, the Official Time Report (OTR), CALMED Form dated 01 Apr 09, at Appendix A will be completed by all Union representatives and submitted to their immediate supervisor upon completion of representational duties. Union representatives may make and retain a copy of the completed OTR for their own records

### **Section 6. Training**

A. The Employer agrees to grant official time to Union officials to attend labor relations training. The Union may draw from a bank of up to 80 hours annually. The parties agree that training under this section is generally of mutual benefit when it covers such areas such as contract administration, handling of statutory actions, grievance handling, and information related to federal personnel/labor relations laws, regulations, and procedures.

B. Written requests, including an agenda, will be forwarded within 45 calendar days in advance of the training to the Union representative's immediate supervisor who will forward it to the appropriate management official for action within three (3) workdays of receipt. Official time may be used for travel to and from the training. The Agency will respond to the request no later than five (5) work days from the date it is made.

C. At the discretion of the Employer, official time for training may be approved except in cases where the absence of the employee or employees may adversely impact the mission of CMD. When a request for official time for training is disapproved for any reason, the reason for such disapproval will be annotated on the OTR CALMED Form, a copy of which, will be furnished to the Union representative making the request.

D. When a new Union representative is designated, the Employer agrees to permit the new steward up to eight (8) hours of official time to receive a Union representative orientation on the administration of the agreement, provided the absence of the employee does not adversely impact the mission of CMD.

### **Section 7. Allegations of Abuse**

Alleged abuses of official time by CMD Union representatives shall be brought to the attention of the Labor Relations Specialist on a timely basis by supervisors and management officials. The Labor Relations Specialist will then discuss the matter with AFGE Local 1263 President.

## **Article 8**

### **MID TERM NEGOTIATIONS**

#### **Section 1. Purpose**

This Article shall be administered in accordance with 5 U.S.C. Chapter 71 and this Agreement. The purpose of this Article is to prescribe the criteria and procedures by which the Parties shall engage in negotiations during the term of the Agreement. Matters appropriate for mid-term bargaining shall include those issues within the scope of bargaining, as proposed by CMD, which are either newly formulated, or changes to established personnel policies and practices during the term of this agreement, which affect the working conditions of bargaining unit employees regarding issues not covered by the Agreement.

#### **Section 2. Procedures for Negotiating During the Term of the Agreement**

A. CMD will provide the Union with reasonable advance written notice, as soon as possible, but normally not less than (30) days prior to the proposed implementation date, of any change affecting conditions of employment. The notice will, at a minimum, contain the following information:

- (1) The nature, purpose, and scope of the proposed change; and
- (2) The description of the change;
- (3) An explanation of CMD's plans for implementing this change;
- (4) An explanation of why the proposed change is necessary; and
- (5) The proposed implementation date.

B. The Union will review the proposal and may respond to CMD.

(1) If the Union wishes additional information or an explanation of the proposal, the Union, within ten (10) days of receipt of the notice, may make a written request for a briefing by Commander or designee, and/or for additional information, in writing, in order to clarify or determine the impact of the proposed change;

and/or

(2) If the Union wishes to negotiate over any aspect of the proposed change, it shall notify the Commander or designee by submitting a demand to bargain within ten (10) days of receipt of the notice (or receipt of any requested briefing or information, whichever is later).

### **Section 3. Agreement to Negotiate**

A. Upon request by the Union, the Parties will meet and negotiate in good faith through appropriate representatives for the purpose of collective bargaining as required by law and this Agreement. Following this request to negotiate, the Parties will schedule a meeting to begin negotiations as soon as possible, normally no later than seven (7) working days from the receipt of the Union's request. Implementation shall be postponed to allow for the completion of bargaining, up to and including negotiability disputes and/or impasse proceedings, except as required by law.

B. The Union will not make a good faith effort to submit proposals, in part or in whole, prior to arriving at the bargaining site whenever practicable.

C. If the Union has not responded to the Commander within the prescribed time frames, the proposed changes in conditions of employment will be implemented on the proposed effective date.

### **Section 4. Ground Rules for Mid-term Bargaining**

The parties will negotiate ground rules for all mid-term bargaining entered into as a result of changes initiated by CMD and any corresponding obligation to bargain over such changes under 5 U.S.C. Chapter 71.

### **Section 5. Waiver**

Nothing in this Agreement shall be deemed to waive either Party's statutory rights unless such waiver is clear and unmistakable.

## **Article 9**

### **DUES DEDUCTIONS**

#### **Section 1. Purpose**

Dues withholding from bargaining unit employees shall be administered in accordance with 5 U.S. Code Chapter 71, "The Federal Service Labor-Management Relations Statute," as amended and this agreement. This Article provides for a fair and equitable system by which Union dues may be collected from bargaining unit employees in a timely and regular basis.

#### **Section 2. Union Dues**

Employees who are members in good standing of the bargaining unit may authorize the payment of labor organization dues to the Union by voluntarily completing a Standard Form 1187 "Request for Payroll Deductions for Labor Organization Dues" or its equivalent. The Employer and the Union agree that the information as to which employees elected to pay dues will only be used in conducting official business and will not be disseminated to any individual without a need for this information.

#### **Section 3. Dues Subject To Withholding**

The term "dues" includes regular and periodic dues, fees, and assessments of the exclusive representative of the unit. The Employer shall honor the assignment and make allotments pursuant to the assignment. All regular and periodic dues allotments will be processed by the parties in a timely manner.

#### **Section 4. Allotments (Payroll Deduction)**

Union members who desire to make an allotment for payment of dues will request such allotments by completing SF-1187. The Union will procure the forms as needed and will make them available to the bargaining unit employees. The Union, in turn, will promptly submit all such forms received from employees to the Civilian Personnel Advisory Center (CPAC) for processing. Ordinarily, allotments will be effective at the beginning of the first pay period following the receipt of a properly completed Standard Form 1187. Any allotment will be made at no cost to the Union or the employee. Employees who are temporarily reassigned to a position not in the bargaining unit may choose to continue their dues allotment.

#### **Section 5. Payment and Union Dues Deduction Report**

A. Defense Finance Accounting System (DFAS) will make a remittance to the Union for amounts withheld on a biweekly basis. The remittance will be paid by electronic funds transfer to the designated bank account or AFGE Local 1263.

B. The payment will be accompanied by a Union Dues Deduction Report from DFAS containing:

- (1) identification of the Union;
- (2) total amount of the remittance;
- (3) name of employee, date, the amount deducted, and an indication if it is a new allotment;
- (4) names of employees for whom deductions previously authorized were not taken with indication for reason; and
- (5) total number of members for whom dues are withheld.

## **Section 6. Changes in Dues Withholding Amounts**

The Union may change the amount of the Union dues deducted per employee. The Union President or other authorized Union Officer shall provide a written instruction to CPAC indicating the dues change. Such instruction must be received 10 workdays prior to the first day of the pay period in which such change is to be effective. Ordinarily, changes will be effective the first pay period after timely receipt by CPAC.

## **Section 7. Dues Revocation**

- A. Union members who have authorized Union dues withholding may revoke their payroll deduction of dues once a year on the anniversary date of the first withholding by submitting a SF 1188, "Cancellation of Payroll Deductions For Labor Union Dues" or its equivalent to the appropriate Union official. The Union will procure the forms as needed and will make them available to the Union members.
- B. Upon receipt of the properly completed SF 1188 the Union representative must certify by date and signature or other date stamping device the date the SF 1188 is given to the Union representative. In order to be timely, the SF 1188 must be submitted to the Union between the anniversary date of the effective date of the dues withholding and 30 calendar days prior to the anniversary date.
- C. The Union official will, by reference to the Union Dues Deduction Report, determine the anniversary date of the allotment. The ending date of the pay period in which the anniversary date appears will be entered in Item (6) on the SF 1188 and initialed by the Union official. The SF 1188 will be delivered to the CPAC prior to the close of business of the Friday following the date entered in Item (6). Notwithstanding Section 7 of this article, ordinarily, deduction of dues with respect to an employee will terminate with the start of the first payroll period after which any of the following occurs:

- (a) loss of exclusive recognition by the Union;
- (b) separation of the employee for any reason;
- (c) Notice to the Employer from the Union that the employee has been suspended or expelled from the membership of the Union;

- (d) transfer, reassignment, or promotion or demotion of an eligible member to a position excluded from the Union's recognition; or
- (e) activation of an employee into active duty military status.

D. Should a dispute arise as to the bargaining unit status of an employee in regard to dues withholding, the dues withholding and remittance to the Union will continue until the matter is resolved.

#### **Section 8. Reinstatement of Separated Employee**

If an employee who has been separated by the Agency is reinstated by an arbitrator, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or a court of competent authority, and the Agency is required to make the employee whole, dues withholding will be continued for that employee without submitting a new SF 1187 (provided there is an existing SF 1187), indicating the employee was a Union member at the time of his/her separation, and the employee does not object to resuming dues withholding. Dues withholding will resume prospectively only.

## **Article 10** **GRIEVANCE PROCEDURE**

### **Section 1: Purpose**

This article shall be administered in accordance with Title 5 U.S. Code Chapter 71, “The Federal Service Labor-Management Relations Statute” and this Agreement. The Employer and the Union recognize and endorse the importance of bringing to light and addressing employee concerns through the negotiated grievance procedure promptly and, whenever possible, informally. In this regard, the parties will insure that their representatives are properly authorized to resolve matters raised under this article. The purpose of this article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances. Except as provided by law, this article shall be the sole and exclusive procedure available to the Employer and the Union and employees of the Unit for the resolution of grievances.

### **Section 2: Use of Statutory Appeal Procedures or Negotiated Grievance Procedures**

- A. In accordance with 5 U.S.C. § 7121 an employee at his/her option may raise matters covered under § 4303 (Unacceptable Performance) and § 7512 (Adverse Actions) under the appropriate statutory procedures or the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his/her option at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing, whichever event occurs first.
- B. Similarly, an employee affected by a prohibited personnel practice under Section 2302(b) (1) of the Civil Service Reform Act may raise the matter under a statutory procedure or the negotiated procedure but not both. An employee shall be deemed to have exercised his/her option at such time as he/she timely files a grievance in writing or files a written complaint under either the regulations of the Office of Special Counsel, or the statutory EEO procedure, whichever event occurs first.

### **Section 3: Representation**

- A. Any bargaining unit employee may present a grievance covered under the terms of this Agreement to the Employer under this article. The Union as the exclusive representative, or its designated representative, shall be the only representative used by an employee under this procedure, except that an Employee may elect to represent himself/herself. The union will be provided with a copy of all grievances filed by employees.
- B. An employee may present a grievance under this procedure without representation as long as the resolution is not inconsistent with the terms of this Agreement. If the Employee elects to represent himself/herself, the Union shall be notified and be given an opportunity to be present at any grievance discussion conducted under the negotiated procedure. The Union shall also be provided a copy of any written decision or settlement in the matter.

C. The Employer and the Union representative will mutually agree to the necessary duty time to prepare and participate in the grievance or arbitration, which the parties recognize will vary based on the complexity of the issues involved.

#### **Section 4: Procedures for Employee Grievances**

A. All grievances will be in writing and should normally describe the matter(s) being grieved, and state the requested relief. A grievance must be initiated within twenty (20) days after the event that gives rise to the grievance or twenty (20) days after the date the grievant becomes aware of the event giving rise to the grievance. A grievance concerning a continuing practice may be presented at any time.

B. This Article shall be the exclusive procedure for employees of the bargaining unit in consideration of alleged violations of this agreement, regulations, personnel policies and practices and other conditions of employment. Matters excluded from this procedure are:

- (1) Violations relating to prohibited political activities.
- (2) Matters concerning retirement, life insurance or health insurance.
- (3) A suspension or removal for national security reasons.
- (4) Any examination, certification or appointment.
- (5) Classification of any position which does not result in the reduction in grade or pay of an employee.
- (6) Termination of probationary/trial period employees.

C. If an employee presents a grievance directly to the Employer on his/her own behalf without union representation for adjustment consistent with the terms of the agreement, the Union must be notified and given the opportunity to have a union representative present to protect the rights of the bargaining unit at any step of the grievance process.

##### **(Step 1) Immediate Supervisor**

The Step 1 grievance shall first be submitted by the grievant (and/or representative if the grievant elects to have one) to the lowest level management official who has authority to render a decision. The Step 1 official must hold a meeting within ten (10) days after receipt of the grievance and must issue a decision within five (5) days after the meeting to the grievant if they are representing themselves or his/her designated Union representative. The decision will grant, partially grant, or deny the relief sought. If unresolved, the decision will name the Step 2 official. The grievant shall have ten (10) days after receipt of Step 1 decision to forward the grievance to the next level supervisor. The Step 2 official shall have authority to resolve the grievance. Failure to forward the grievance within ten (10) days ends the grievance.

##### **(Step 2) CMD Commander or designee**

Within ten (10) days after receipt of the grievance by the Step 2 official, the parties will arrange for a presentation by the grievant or the grievant's representative, if requested. Written material may be presented at the time of, or in lieu of, the oral presentation. The Step 2 official or designee will, within ten (10) days, after the presentation date or upon

receipt of written material, (if it is given in lieu of the oral presentation), give a written decision to the grievant if the grievant is self-representing.

The Union will have thirty (30) days from receipt of the decision to notify CMD that the Union is invoking arbitration.

If the parties agree to do so they may contact FMCS and request in writing the services of a mediator to assist in the resolution of the issue. Management responses to a grievance at all steps of the procedure will be given to the grievant's designated representative.

### **Section 5: Union-Management Grievance Procedure**

The Union or management may initiate a grievance on its own behalf concerning (1) the effect or interpretation, or claim of breach of this Agreement or (2) any claimed violation, misinterpretation, or misapplication of any law, rule, regulation, or policy issued for the purpose of affecting conditions of employment. The Union may also submit a grievance on behalf of a group of employees. A grievance under this section shall be submitted in writing no later than thirty (30) days from the act or occurrence giving rise to the grievance or no later than thirty (30) days from the date the Union/CMD knew, or had reason to know, of the act or occurrence. A grievance concerning a continuing practice may be presented at any time.

Union initiated grievances will be signed by the Local President and filed with the CMD Commander or his/her designee. Management initiated grievances will be signed by the CMD Commander or his/her designee and filed with the Local President.

Either party may request a meeting to discuss the grievance. The final decision authority shall issue a written decision within ten (10) days of receipt of the grievance.

## **Article 11** **ARBITRATION**

### **Section 1: Purpose**

This article shall be administered in accordance with the Federal Service Labor-Management Relations Statute, Title 5, U.S. Code Chapter 71, and this Agreement. This article establishes the procedures for the arbitration of disputes between the Union and the CMD which are not satisfactorily resolved by the negotiated grievance procedure covered in this Agreement.

### **Section 2: Procedures**

- A. The Union or the Employer may invoke arbitration by serving notice on the other within thirty (30) days following receipt of a final decision under the Negotiated Grievance Procedure. The notice shall identify the grievance and shall be signed and dated by the Local 1263 President /designee or CMD Commander/designee.
- B. Within 15 days from invoking arbitration, the parties to the arbitration shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS) by jointly submitting completed FMCS Form R-43 "Request for Arbitration Panel." If one party refuses to join in the request for arbitrators one party may make a unilateral request to FMCS for a panel of arbitrators. Within 7 days from receiving the list of arbitrators from the FMCS the parties shall meet to select an arbitrator. At any time the parties may agree to obtain a new list of arbitrators from the FMCS in the event (1) either party refuses to participate in the selection of an arbitrator; or (2) upon inaction or undue delay on the part of either party.
- C. Upon selection of the arbitrator, the Parties shall jointly communicate with the arbitrator and one another to select an agreeable date for the submission of motions and responses dealing with questions of arbitrability, if any, and establish a date for the hearing. Hearings over employee grievances shall take place at the site where the employee works, unless otherwise mutually agreed to.
- D. When a grievance concerns a complaint of sexual harassment, as defined in Article 22, Equal Employment Opportunity, the hearing shall be a closed forum.

### **Section 3. Grievability/Arbitrability**

The arbitrator has the authority to make all grievability and/or arbitrability determinations. If either Party raises an issue of grievability/arbitrability, the arbitrator will hear the merits of the underlying grievance and decide both issues together. Arbitrability/grievability issues must be raised in writing by Step 2 of the grievance procedure. Threshold issues arising under this section may be submitted to the arbitrator by brief, and decided prior to a hearing on the merits of the underlying grievance. Any allegations of grievability/arbitrability will be heard as threshold issues in the hearing. There will be no separate hearing for grievability/arbitrability issues, except by mutual consent.

#### **Section 4. Witnesses and Parties**

The grievant(s), the grievant's representative, and technical advisor, if any, and all employees identified as witnesses, who are in a duty status, shall be excused from duty to the extent necessary to participate in all phases in the arbitration proceeding, either as a Party or to testify as a witness, without loss of pay. CMD shall ensure that all witnesses who are employed by CMD are available for the hearing. In those instances when a witness cannot be made available on the day required, the arbitration may be postponed.

#### **Section 5. Authority of Arbitrator**

The arbitrator's decisions shall be final and binding subject to the Parties' right to take exceptions to an award in accordance with law, or the grievant's right, if applicable, to initiate court action. However, the arbitrator shall be bound by the terms of this Agreement and shall have no authority to add to, subtract from, alter, amend or modify any provision of this Agreement. The arbitrator may retain jurisdiction over a case when necessary to clarify the award, and will retain jurisdiction in all cases where exceptions are taken to an award and the Federal Labor Relations Authority sets aside all or a portion of the award.

#### **Section 6. Ex Parte Communication with Arbitrator**

There will be no communication with the arbitrator unless both Parties are participating in the communication.

#### **Section 7. Computation of Time**

In computing periods of time for the purpose of this article, the first day of counting will be the day after the day of the act or event (e.g., the day after the employee received a final decision to take discipline, or the day after the deadline for submitting a response to a grievance).

#### **Section 8. Arbitrator's Award**

The arbitrator shall render a written decision not later than 30 days after the conclusion of the hearing unless the Parties mutually agree to extend this time limit. If no exception or other appropriate legal action is filed within the time limit established by statute and/or FLRA regulation, the award is final and binding. The appropriate Party will take the actions required by the final award within 15 days after it becomes final and binding, except as provided by the Award.

#### **Section 9. Costs of Arbitration**

A. The Parties agree to share equally the cost of customary fees, including reasonable travel expenses of the arbitrator selected to hear the case.

B. The cost of a reporter or transcript, if used, shall be shared equally by the Parties if it is mutually agreed by the Parties to have one, or where requested by the arbitrator. Absent mutual agreement, either Party may unilaterally request that a transcript be prepared, but must bear all costs incurred in its preparation.

C. If, prior to the arbitration hearing, the Parties resolve the grievance, any cancellation fees shall be borne equally by both Parties. If a Party requests postponement, that Party shall bear the full cost of any rescheduling fees or postponement fees.

#### **Section 10. Attorney Fees and Expenses**

Reasonable attorney fees and expenses will be provided to the Union consistent with Title 5 of the US Code section 5596 governing back pay.

(1) By statute, an arbitrator has jurisdiction to resolve a motion for attorney fees from the Union after an award becomes final and binding.

(2) The arbitrator's award on the issue of attorney fees will be issued within thirty (30) days of the arbitrator's receipt of the Agency's response to the Union's request. The arbitrator will provide a detailed explanation of why fees were or were not granted, as well as the hours and rates allowed.

(3) All charges of the arbitrator incurred in connection with the award of attorney fees will be shared equally by the parties.

## Article 12

### **DISCIPLINARY AND ADVERSE ACTIONS**

#### **Section 1: Purpose**

This Article shall be administered in accordance with Title 5, United States Code, Chapters 75 and 77, Title 5, Code of Federal Regulations Part 752 and this Agreement. The purpose of this Article is to prescribe the criteria and procedures by which CMD shall impose discipline upon employees.

#### **Section 2: Definitions**

- a) **Disciplinary action** includes, but is not limited to verbal counseling, written counseling, letter of reprimand, short-term suspension (14 days or less), long-term suspension (more than 14 days), and removal.
- b) **Adverse action** is defined as a removal, a suspension for any duration, a reduction in grade or pay or a furlough for 30 days or less.
- c) **Furlough** means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other non-disciplinary reasons.
- d) **Counseling (often referred to as a warning)** means direction to an employee from a manager that is used as a constructive means to encourage an employee to improve his or her conduct. Counseling may be oral, or reduced to writing.
- e) **Suspension** means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

#### **Section 3: Actions Not Covered By This Article**

In accordance with 5 U.S.C. § 7512, the provisions of this Article do not apply to:

- (1) A suspension or removal under 5 U.S.C. § 7532 (suspension and removal for National Security reasons);
- (2) A reduction-in-force action under 5 U.S.C. § 3502;
- (3) A reduction in grade or removal under 5 U.S.C. § 4303 (actions based on unacceptable performance); or
- (4) An action initiated under 5 U.S.C. §§ 1215 (disciplinary action initiated by the Office of Special Counsel).

#### **Section 4: General Provisions**

- A. Disciplinary and adverse actions will be taken only for such just cause as will promote the efficiency of the service.
- B. Disciplinary and adverse actions will be initiated and handled in a timely manner.
- C. Disciplinary and adverse actions will be consistently applied.
- D. Discussions involving disciplinary or adverse actions will be conducted privately and in such a manner as to avoid embarrassment to the affected employee.
- E. In arriving at its written decision, CMD shall consider mitigating or aggravating circumstances, the reasons specified in the notice of proposed action, and any answer of the employee and/or his or her representative made to a designated official. CMD shall deliver the notice of decision to the employee at or before the time the action will be effective and advise the employee of appeal rights.

#### **Section 5: Oral Counseling and Written Warnings**

- A. CMD will determine when oral or written warnings may be appropriate to correct an employee's conduct.
- B. The employee who is subject to counseling or warnings should be advised that disciplinary or adverse action may result if he/she fails to comply with work or conduct rules.

#### **Section 6: Suspensions**

- A. In accordance with 5 U.S.C. § 7503, an employee against whom a suspension is proposed is entitled to the following:

Advance written notice stating the specific reasons for the proposed action;

A written decision and the specific reasons for the decision at the earliest practicable date.

In the event that there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed, CMD may provide minimal or no advance notice to the employee

- B. The notice of proposed action shall inform the employee of his or her right to review the material that is relied on to support the reasons for action given in the notice. If requested, Management will provide copies of all the material relied upon to support the proposed action.

- C. A management official will be designated to receive the employee's oral and/or written answer. The official will have authority to make a final decision on the proposed action.

D. Under ordinary circumstances, an employee whose suspension has been proposed shall remain in a duty status in his or her regular position during the advance notice period.

E. The employee will be provided a reasonable amount of time, but not less than ten (10) days, to review the evidence and material relied upon to support the proposed action and to prepare an answer and to secure affidavits and other documentary evidence. If requested by the employee or his or her designated representative, CMD will furnish copies of such material relied upon prior to the answer. The material relied upon will include all evidence (both favorable and unfavorable to the employee) that has been considered in determining the action. Where CMD has relied upon witnesses to support the reasons for the proposed action, it will provide copies of any written statements taken.

F. If an employee requests an extension it must be done in writing (i.e., email, formal letter or memorandum) prior to the end of the ten day rebuttal period.

G. The written decision constitutes CMD's final decision on the short-term suspension and may be grieved through the negotiated grievance procedure in Article 10.

#### **Section 7: Removals, Suspensions of More than 14 Days, Furloughs Without Pay for 30 Days or Less and Reductions in Pay or Grade**

A. In accordance with 5 U.S.C. § 7513, an employee against whom a removal, suspension of more than 14 days, furlough without pay for 30 days or less or reduction in pay or grade is proposed is entitled to the following:

(1) At least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action;

(2) A reasonable time, but not less than ten (10) days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

B. CMD shall consider the following factors in arriving at its decision:

(1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical, or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

(2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and the prominence of the position;

(3) The employee's past disciplinary record;

(4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;

(5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties;

- (6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) Consistency of the penalty with any applicable agency table of penalties;
- (8) The notoriety of the offense or its impact upon the reputation of the agency;
- (9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) Potential for the employee's rehabilitation;
- (11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

C. CMD shall deliver the notice of decision to the employee at or before the time the action will be effective and advise the employee of appeal rights.

D. After receiving a decision on a removal, suspension for more than 14 days, a furlough of 30 days or less or a reduction in pay, an employee alleging that unlawful discrimination was a basis for the action in whole or in part, at his/her option, may appeal to the Merit Systems Protection Board, file an EEO complaint or file a grievance under the negotiated grievance procedure in Article 10, but not both.

E. If the employee wishes to utilize the appellate procedures, he or she has 30 days from the effective date of the action being appealed, or no later than 30 days after the date of service of a decision, whichever is later, to appeal to the MSPB.

F. An employee will be deemed to have exercised his or her option to raise a matter either under the applicable appellate procedures or the negotiated grievance procedure when the employee timely files an appeal under the applicable appellate procedures or a grievance in accordance with the provisions in Article 10, whichever occurs first.

## **Section 8: CMD Records**

A. CMD will maintain the following until such time as there is no further appeal available to the employee: copies of the notice of proposed action, the answer of the employee, if written, the notice of decision and reason for the decision and any order effecting the action, together with any supporting material.

B. Unless required by Government-wide regulations, records of disciplinary actions will be removed from employee's Supervisory File (as referred to in Article 4, Employee Rights) after one year, provided there has been no recurrence of the incident or behavior.

## **ARTICLE 13**

### **PERFORMANCE STANDARDS AND APPRAISALS**

#### **Section 1. Overview.**

A. The performance evaluation system shall provide a fair, accurate, and objective evaluation of job performance, consistent with CMD's commitment to an environment that promotes team work, and the accomplishments of group or team objectives.

B. The purpose of the performance evaluation system in this Article is to provide a framework to ensure feedback and open two-way communications between employees and their supervisors. The system focuses on contributions within the scope of the employee's job description in achievement of the overall mission. While CMD fosters a team work environment, the employee is responsible for the accomplishment of his/her performance objectives within the framework of the position description. CMD promotes day-to-day interaction among employees and supervisors.

C. This system will be a positive building block in the foundation of a relationship based on shared interests and mutual objectives. The assessment system will emphasize:

- (1) Employee performance;
- (2) Overall employee contributions;
- (3) Recognition of special skills and contributions in addition to regular job duties; and

D. Employees shall receive written performance ratings based on performance standards which are related to assigned duties.

E. Employees are entitled to the level rating that most accurately describes their performance compared with the performance standard for the element.

F. Employees are entitled to a summary rating that most accurately reflects their overall performance during the complete rating period.

**Section 2. Performance Standards.** The standards shall be in writing and signed by the employee and the rating and approving supervisor. The employee will receive their performance plan upon implementation of said plan, or within 30 calendar days after being assigned to a new position.

#### **Section 3. Appraisals.**

Except under unusual circumstances, each employee's performance will be rated annually against the standards established for their position. However, the employee must be on approved standards for a minimum of 120 days prior to receiving a performance rating.

#### **Section 4. Communication**

A. Each annual rating will include both a written appraisal and a discussion between the rating supervisor and the employee. Other discussions between the employee and the rating supervisor will be held, as needed, during the rating period to provide supervisors with data to assess work progress and to help employees to improve their performance.

B. Supervisor's will meet with their employees at least three times a year to discuss their performance.

(1) At the beginning of every rating period, or upon entering on duty, employees will be provided an opportunity and encouraged to participate in the establishment of their performance standards. Rating officials will give serious consideration to suggestions made by the employees.

(2) Supervisors will meet with their employees mid-way in the performance cycle. This communication should be a discussion of the employee's performance to date. If an employee is failing to meet successful in any performance, it should be discussed, along with ways and means to improve.

(3) Supervisors will meet with employees at the end of the cycle, and discuss the employee's overall performance for that cycle. Employees are encouraged to participate in this discussion. Employees will have three (3) days from the date of this discussion to offer a rebuttal to the supervisor's decision.

(4) The discussion between the rating supervisor and the employee will be in private and of sufficient length to allow the employee time to discuss matters of interest concerning the appraisal.

**Article 14**  
**TRAINING AND CAREER DEVELOPMENT**

**Section 1. General Provisions**

- A. The training and development of employees is important in carrying out the mission of CMD. CMD is responsible for ensuring that all employees receive the training and development necessary for improvement of the workforce.
- B. Employee training and development will be administered in accordance with all applicable laws, rules, regulations, and the provisions of this agreement.
- C. Either employees or managers may initiate discussion of individual training needs. Such discussions may or may not be linked to an Individual Development Plan (IDP).
- D. CMD initiated training will be conducted by instructors who are trained and qualified to provide such training.

**Section 2. Training and Education Programs**

- A. Management will relay relevant CMD and Department of the Army (DA) sponsored training, as received, to the applicable department supervisor to inform employees. CMD will remind employees, at least annually, of the availability of government-sponsored training programs, the general scope of training, the criteria for approval of training, and the nomination procedures. CMD will advise individual employees, upon request, of currently available government-sponsored training courses so as to provide the employee the opportunity to express timely interest.
- B. An employee may request or a supervisor may nominate an employee to participate in training. Nominations will be based on the potential use of the training to improve organizational and individual performance and other criteria established by applicable laws, rules, regulations, and the provisions of this Agreement. Nominations for training and career development programs and courses will be made in a fair and equitable manner.
- C. When an employee requests training, justification will be attached to the request. Employees will be notified in writing of the approval or disapproval of their nominations and the reason(s) for disapproval. To the extent feasible, employees will be notified of the approval or disapproval prior to the starting date of the training. Should an employee's nomination for training be disapproved for lack of resources, the employee may reapply when the funds become available.
- D. The Agency will record relevant completed training in the Defense Civilian Personnel Data System (DCPDS). The employee will provide documentation of training to CMD including any record of training and educational achievements completed outside CMD.
- E. If required, training will be provided to employees whose positions are abolished or re-engineered as a result of reorganization, change in mission, work elimination, introduction of

new duties, transfer of work, or implementation of new technology before expecting adversely impacted employees to perform new or altered duties. However, this section does not preclude the employee from performing those duties not requiring specialized training.

### **Section 3. Career Development**

A. Each employee will be entitled to establish an Individual Development Plan (IDP) for self development purposes. An IDP is a flexible document voluntarily developed by the employee to be used as a roadmap for the employee's professional and career development. The primary emphasis of the plans will be, first to address the competencies (or knowledge, skills, and abilities) needed by the employee in his/her current position; second, to prepare employees for new career opportunities; and third, to address the competencies needed for advancement beyond his/her current journey level.

B. CMD may give all employees, on an annual basis, the opportunity to prepare an IDP. Upon request, the supervisor may assist the employee in the preparation of the IDP and will review it with the employee to ensure that the plan conforms to organizational and individual career needs.

C. Competitive promotion procedures, in accordance with Article 15, Merit Promotion, shall be followed in selecting employees for training that is primarily to prepare trainees for advancement and that is not directly related to improving performance in their current positions.

### **Section 4. Training and Career Development Expenses**

A. Employees will not incur costs for Agency-required training necessary for the performance of their assigned duties. When offsite temporary duty (TDY) training is approved, CMD will pay registration and pay travel costs, pursuant to the Joint Travel regulation (JTR) to maintain certification and/or licenses related to employees' current position.

B. CMD will pay employees expenses for attending conferences and meetings if approved, as authorized by 5 USC Section 4110 when the following criteria are met as provided in 5 CFR 410.404:

- (1) The announced purpose of the conference is educational or instructional;
- (2) The content is germane to improving individual and/or organizational performance;
- (3) Most of the conference consists of planned, organized exchanges of information between presenters and audience; and
- (4) The employee will derive developmental benefits through attending.
- (5) Provided funds are available.

### **Section 5. Training Instructor Selection**

CMD may solicit volunteers and consider the following factors in making instructor assignments: availability, expertise, and subject matter expertise (including recent technical training).

## **ARTICLE 15** **MERIT PROMOTION**

**Section 1. Purpose.** The purpose and intent of this Article are to ensure that merit promotion principles are applied in a consistent manner, with equity to all employees, and without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, disabling condition, age, or sexual orientation and shall be based solely on job-related criteria.

The Employer and the Union agree that all promotions in the unit will be in accordance with the provisions of the Office of Personnel Management, Department of the Army regulations and the West Region's Merit Promotion and Placement Plan (WRMPPP).

**Section 2. Selections.** The selecting official may use interviews as a tool in evaluating candidates on the referral list, unless the selecting official determines a candidate was referred erroneously or does not meet the qualifications necessary for the position.

**Section 3. Exceptions.** Placement actions accomplished without regard to competitive procedures will be in accordance with the provisions contained in the WRMPPP. The justification for use of these provisions will be fully documented on the SF-52, Request for Personnel Action, in each case.

- A. Promotion of an incumbent resulting from the upgrading of a position without significant change in duties and responsibilities due to issuance of a new or revised classification standard or the correction of a classification error.
- B. Special consideration extended to employees demoted within Department of Defense without personal cause and not at personal request.
- C. Special consideration of employees who failed to receive proper consideration in a previous competitive promotion action.
- D. Career promotions made without new competition when the incumbent of a position was selected competitively at an earlier stage, and the intention to prepare the selectee for the grade level now being filled was made a matter of record.
- E. Priority Placement Program (PPP).

**Section 4. Area of Consideration.**

- A. The area of consideration must be sufficiently broad to ensure the availability of a reasonable number of high quality candidates taking into account the nature and level of the position to be filled, merit principles, and objectives, and applicable regulations and requirements of this negotiated agreement. The minimum area of consideration for vacancy announcements will be current permanent Department of Army employees with competitive status.

B. The area of consideration will be determined between the CPAC and CMD selecting official and will be identified in the merit promotion vacancy announcement.

**Section 5. Methods of Locating Candidates.**

A. The appropriate type of vacancy announcement will be used to locate candidates, depending on the position to be filled. Each vacancy announcement will be open for application for a minimum of three (3) workdays, as outlined in WRMPPP. The announcements shall be posted on the Civilian Personnel On-Line (CPOL) web site at [www.cpol.army.mil](http://www.cpol.army.mil). In areas where no employee computer access is available; hard copies of open CMD vacancy announcements may be posted in a timely manner in the CMD Clinic breakroom.

B. Vacancy announcements will contain, at a minimum, the following:

- (1) Announcement number.
- (2) Opening and closing dates.
- (3) Title, series, and grade of position.
- (4) Brief summary of the minimum qualifications and duties of the position.
- (5) Selective placement factors, conditions of employment, etc.
- (6) Area of consideration.
- (7) Location of job vacancy (major organization).

C. Candidate evaluation results of merit promotion and placement vacancy announcements may be used for 180 days following the closing date of an announcement/ issue date of the list, in order to fill similar positions that may arise within the major organization where the same highly qualifying criteria is required.

D. Employees submit an application for each vacancy announcement via the Self Nomination process on the announcement posted on [www.cpol.army.mil](http://www.cpol.army.mil), for which they wish to be considered. An employee may apply for promotion, reassignment, or change to lower grade during the open period as designated on the posted vacancy announcement.

**Section 6. West Region's Merit Promotion and Placement Plan.** The Employer agrees to provide the Union a copy of the WRMPPP and any future changes. The Employer agrees to meet and confer with the Union on future revisions of the plan.

**Section 7. Test and Interviews.** Tests or interviews will be scheduled during duty hours.

**Section 8. Notification of Consideration.**

A. The employee may check their application status via the Application Notification System Web-Enabled Response (ANSWER), which is an application on [www.cpol.army.mil](http://www.cpol.army.mil).

B. Employees who believe they have been denied proper consideration may request reconsideration or file a grievance under the negotiated grievance procedures. Prior to the filing of any grievance, employees are encouraged to meet with appropriate officials of the Employer, i.e., representatives of the CPAC, selecting official to have their rating reviewed.

**Section 9. Release of Employees.** Employees selected for another position will be released to assume the duties of the position as soon as practicable. Normally, this will occur within 30 days after selection.

**Section 10. Re-promotion.**

A. Employees who have been involuntarily placed in a lower graded position than what they previously held resulting from a Reduction in Force (RIF) are re-promotion eligible.

B. Employees eligible for re-promotion consideration will be referred to the selecting official prior to competitive referrals.

C. In order to take full advantage of their re-promotion eligibility, employees are encouraged to apply as competitive candidates for vacancies for which they believe themselves to be qualified.

**Section 11. Temporary Promotions.**

A. A temporary promotion is a temporary assignment of an employee to a different position of higher grade for a specified period of time, and that provides promotional opportunity for permanent employees. The employee returns to his/her regular duties at the end of the assignment. The employee does receive the pay of the new position as a result of the temporary promotion. Temporary assignment to a higher grade position shall be accomplished by a temporary promotion when all of the following conditions are met:

- (1) The need for a temporary promotion replacement is expected to last more than 120 days;
- (2) There are no DoD PPP candidates willing to accept temporary placement;
- (3) The employee will be required to fully assume the grade-controlling duties and responsibilities of the higher grade position.
- (4) The employee meets the minimum OPM qualifications standards for the position.

B. Temporary promotions will be for specified periods of time, not less than thirty (30) days. Temporary promotions of more than 120 days will be accomplished under competitive procedures. This requirement will not be circumvented by a series of short-term temporary assignments. In the event the Agency is undergoing a base closure or major draw down; (e.g., RIF) non-competitive temporary promotions and details to higher grades are authorized for a period not to exceed 179 days.

C. The area of consideration for competitive detail/temporary promotion may be narrower than for permanent placement.

D. If the area of consideration for a competitive detail/temporary promotion was narrower than required for normal permanent placement, full competitive procedures shall apply should the position later be filled on a permanent basis.

E. All individuals to be temporarily promoted competitively or non-competitively will be advised in advance of the temporary nature of the action and all conditions relating to it, including the expected duration. Also, it shall be made clear that management, at its discretion, may terminate a temporary promotion at any time sooner than the expected termination date.

**Section 12. Maintenance of Promotion Records.** Promotion and placement actions will be documented in an employee's Official Personnel Folder and in record files of each promotion action as specified by the Office of Personnel Management, to provide clear evidence that actions are being effected in accordance with the policy and provisions of the WRMP; to provide the basis needed for evaluation of the program; and for answering questions that management or employees may raise about the program in general or specific promotion actions.

**Section 13. Information to the Union.** When an authorized representative of the Union requests information regarding specific promotion/placement actions the request shall be in writing. The written request shall specify whether a statistical or depersonalized form of the information is acceptable. Disclosure of information will not be made unless provisions of law governing release of information to labor organizations are met and personal and sensitive data; i.c., marital status, age, handicapped designators, etc., have first been deleted and/or the prior written consent has been obtained by the Union from the individual to whom the information requested pertains. Management and the Union agree that time required for grievant's representatives to obtain such information will be given due weight in determining need for extensions of time limits during any step of the grievance procedure. When requesting information for promotion actions, the following procedures will apply:

A. The Union will contact the CPAC Labor Specialist for the job vacancy in question.

B. Information considered appropriate to be released to the Union by the personnel specialist includes Request for Personnel Action, vacancy announcements, career referral requests, resumes, or other material identified in the applicant's qualifications and releasable by the Personnel Staffing Specialist:

<u>Information</u>	<u>Releasability</u>
(1) Request to Fill	SF-52 (Sanitized of personal information)
(2) Application Material	Documents related to the grievant (sanitized) and selectee
(3) Rating and Ranking	Documents related to the grievant and selectee
(4) Referral List	Material
(5) Selection	Complete list
	Same Documentation

C. For information not identified in b above, and not normally releasable to the Union by the CPAC, the Union will provide a written request to the CPAC to include a statement of the necessity and relevance of information requested to a representational matter.

D. In the event that the information is still considered non-releasable by the Employer, the Union may then notify the Employer of its intent to seek the information under the provisions of 5 USC 7114 (b).

## **Article 16**

### **POSITION CLASSIFICATION**

#### **Section 1. General**

- A. Management retains the right, in accordance with applicable laws and regulations, to assign work; however, this does not limit the employee's right to express dissatisfaction concerning procedures employed by Management. Also, this does not preclude management from considering the views and recommendations of the Union.
- B. Affected employees and the Union will be provided timely notice of personnel management evaluations conducted by either the Agency or OPM that will involve classification audits of bargaining unit employees.
- C. CMD will notify the Local President in writing as soon as possible when substantive changes will be made in the duties and responsibilities of positions held by bargaining unit employees due to reorganization, or when changes in position classification standards result in classification changes, or for any other reason that changes will be made in position classification standards that could result in classification changes.
- D. CMD will apply newly issued OPM classification and job grading standards within a reasonable period of time. The Union will be provided with copies of new standards. Current standards will be provided upon request.
- E. Upon request, the Agency will provide the Union with copies of all Agency guidance provided to OPM in connection with any classification standards.

#### **Section 2. Position Descriptions**

- A. All employees are entitled to a complete and accurate position description, which clearly and concisely states the major and grade controlling duties, responsibilities, and supervisory relationships of the position. This will be provided to the employee at the time of assignment and upon request.
- B. Each CMD position covered by this Agreement must be current and accurately described, in writing, and classified to the proper occupational title, series, code, and grade in accordance with OPM and Agency regulations.
- C. Current position descriptions for bargaining unit positions will be provided to the Union, upon request.
- D. Whenever an existing position description is amended or new descriptions for employees are developed, the Agency will provide copies of the amended or new descriptions to the Union and affected employees at least four weeks in advance of the proposed implementation.

E. The phrase "other related duties as assigned" as used in position descriptions, means duties that are not described in the employees' job descriptions that reasonably relate to the employee's position and qualifications. Management retains the right to assign duties which might not be reasonably assigned to an employee's position.

F. If an employee has a question concerning his/her classification or position description, he/she is entitled to discuss his/her position description with his/her supervisor. If the employee wishes to pursue the matter further, he/she may request a desk audit as provided for in Section 3 of this Article, file a grievance as appropriate or file a classification appeal in accordance with Section 6 of this Article and 5 CFR Part 511, Subpart F.

### **Section 3. Desk Audits**

A. Desk audits may occur by request of an employee or at the discretion of CMD. Employees may request a desk audit by notifying their supervisor.

B. An employee(s) who is the subject of a desk audit and the Union, will be provided timely notice by the Agency prior to the desk audit. Notices will identify the employee(s), position, the reason the audit is being conducted, and propose a time for the audit.

C. While a desk audit is in process, the duties assigned by management will be audited.

D. During an audit, the employee and Union may discuss the audit with the employee's supervisor and other involved management officials (e.g., CPAC staff). Upon completion of the audit, the supervisor shall discuss the findings with the employee and the Union.

E. As appropriate, desk audits will be performed at the employee's workstation.

### **Section 4. New Classifications**

A. Classification decisions rendered by the Department of the Army or OPM having the effect of establishing a grade level that did not exist before within an occupation will be forwarded by the CMD to the Union.

B. A promotion resulting from the application of a new classification standard or correction of a classification error will normally be effected no later than the beginning of the second pay period following a management decision to promote the incumbent(s), provided he or she qualifies for the position and other requirements for the position in question.

### **Section 5. Downgrades**

A. An employee whose position is reclassified to a lower grade which is based in whole or in part on a classification decision is entitled to a prompt written notice from CMD. This notice will be issued to affected employees within 14 calendar days of the decision. This includes employees who are eligible for retained grade or pay. The notice will explain:

1. The reasons for the reclassification action;

2. The employee's right to appeal the classification decision; and
3. The time limits within which the employee's appeal must be filed in order to preserve any retroactive benefits under 5 CFR 511.703.

C. Employees who have been downgraded as a result of a classification action while serving under a career or career-conditional appointment shall be entitled to priority placement equal to the grade that the employee held prior to that position being downgraded, as long as the employee qualifies for that position.

#### **Section 6. Classification Appeals**

- A. Employees may appeal classification decisions that result in a reduction in their grade or if the employee believes that they are performing work of a higher graded employee through the administrative process provided for under 5 CFR 511.101.
- B. Employees with the assistance of their designated representative may file an appeal with OPM to challenge either the appropriateness of the occupational series or grade of the employee's position or the inclusion under or exclusion of their position from chapter 51 of Title 5 U.S.C. Classification appeals will be processed in accordance with 5 CFR Part 511, Subpart F, for General Schedule employees; 5 CFR Part 532, Subpart G, for Federal Wage System employees; applicable Agency rules; and the provisions of this Agreement, as appropriate.

## **Article 17** **LEAVE**

### **Section 1. Purpose**

The purpose of this Article is to prescribe the policies covering the different types of leave pertinent to all employees in accordance with applicable law and regulation. This Article shall be administered in accordance with Title 5, United States Code, Chapters 63; Title 5, Code of Federal Regulations, Parts 630 and this Agreement.

### **Section 2. Purpose of Leave**

A. The purpose of leave is to allow employees an annual vacation of extended leave for rest and recreation and to provide periods of time off for personal, medical, family, emergency, and/or other purposes.

### **B. Accrual and Use of Leave**

Employees will be entitled to accrue and use leave in accordance with applicable laws, regulations, and this Agreement. The Parties agree that the use of accrued annual leave is the right of the employee and not a privilege.

### **Section 3. Definitions**

“Accrued Leave” means the unused leave earned by an employee during the current leave year.

“Accumulated leave” means the unused leave remaining to the credit of an employee at the beginning of a leave year.

“Leave year” means the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

“Medical certificate” means a written statement signed by a registered practicing physician or licensed practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

### **Section 4. Annual Leave**

#### **A. Leave Procedures**

Employees are encouraged to apply for extended leave (seven (7) days or more) at least 60 days in advance. Leave requests and approval or denial will be made in writing using OPM Form 71, Request for Leave or Approved Absence. The supervisor ordinarily will respond within two (2) weeks from the request date. Employees may, upon request and with the approval of their supervisor, change previously authorized annual leave to sick leave in accordance with 5 CFR 630.405.

B. Employees may utilize annual leave in fifteen (15) minute increments. Annual leave may not be charged in increments of less than fifteen (15) minutes.

C. Annual leave will be granted, subject to workload demands, in a manner which permits each employee who wishes to take at least two (2) consecutive weeks of annual leave each year. If workload permits, employees may request and supervisors may approve periods of annual leave that exceed two (2) consecutive weeks.

D. When scheduling conflicts occur, an effort should be made to resolve the conflict between the employees involved. Unresolved conflicts will be settled by the date of the employee's request for leave.

E. In instances where employees have received advanced approval for leave which is later rescinded and results in the loss of personal expenses to the employee, CMD will reimburse the employee for any costs associated with the disapproval if permitted by law or Government-wide regulation

## **Section 5. Advancing Annual Leave**

Advanced unearned annual leave can be granted by the supervisor. However, the granting of advanced annual leave by CMD is discretionary. CMD has established the following criteria: 1) the employee has completed his/her probationary period; 2) has served more than 90 days in his or her current appointment; 3) is eligible to earn annual leave; 4) is not on a leave restriction letter; 5) does not request more advanced leave than would be earned during the remainder of the leave year in which the leave is requested. Request for advanced annual leave should be initiated by the employee on OPM Form 71 as soon as the need is identified through first line supervisor. The first line supervisor will facilitate the request for consideration by the Commander or designee for approval and then forward to the Civilian Personnel Advisory Center (CPAC) for processing.

## **Section 6. Annual Leave for Union Representatives**

An employee who is a steward or other Union official will be granted annual leave or Leave Without Pay ("LWOP") to attend internal Union functions which are not covered by Official Time as set forth in Article 7. Normally, an advanced notice of 5 work days will be required and will be approved subject to workload considerations.

## **Section 7. Sick Leave**

### **A. Accrual and Approval**

Employees will earn and accrue sick leave in accordance with applicable law and regulations. Employees may utilize sick leave in fifteen (15) minute increments. The Agency will approve an employee's request for sick leave when the employee:

- (1) Receives medical, dental, or optical examination or treatment;

(2) Is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;

(3) (a) Provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or

(b) Provides care for a family member with a serious health condition;

(4) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;

(5) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.

## **Section 8. Scheduling**

A. Employees should schedule non-emergency medical, dental, optical, psychological, or alcohol/drug counseling appointments as soon in advance as practicable and should request sick leave in advance for such appointments.

B. If the need for leave cannot be anticipated, the employee shall contact the immediate supervisor for approval of unscheduled or emergency sick leave. The supervisor shall be contacted directly through the Medical Officer of the Day (MOD). The employee shall request approval within one (1) hour prior to the start of the employee's normal work day, or as soon as possible thereafter. In the event that the supervisor is not available, the employee may leave a voice mail message to notify the supervisor of the need for unscheduled sick leave. Failure to report and give notice of anticipated need for sick leave within (1) hour of the time established to report for duty will not, in itself, be a reason to deny sick leave.

C. If the leave cannot be granted, the supervisor will notify the employee as soon as possible of the employee's request that it cannot be granted. The employee will be given a reasonable amount of time to report to work without a charge of AWOL. If an employee who reports to work late is required to use sick leave, CMD may not require him or her to perform any work during the period that leave is charged.

## **Section 9. Medical Evidence**

Employees may be required to furnish medical documentation to substantiate a request for approval of sick leave for three (3) consecutive workdays or less. Employees will be required to furnish medical documentation to substantiate a request for approval of sick leave if the sick leave exceeds three (3) consecutive workdays.

## **Section 10. Sick Leave Abuse**

Where CMD has reasonable grounds to believe that an employee is abusing the use of sick leave (for example, when sick leave is used frequently or in unusual patterns or circumstances), CMD

may inquire further into the matter and ask the employee to explain. If reasonable grounds continue to exist for questioning an employee's use of sick leave, the employee may be placed on leave restriction. The notification will be in writing and inform the employee that no request for sick leave, or other leave in lieu of sick leave, will be approved for a stated period (not to exceed (6) months) unless supported by a doctor's certificate. Any such written notice will describe the frequency, patterns or circumstances which led to its issuance. Periodically, CMD will review the employee's situation and will notify the employee in writing if the leave restriction is no longer in effect.

### **Section 11. Advanced Sick Leave**

A. Employees who are incapacitated for the performance of duties because of serious disability or ailment may request advance sick leave not to exceed 30 calendar days. A maximum of 30 days of sick leave may be advanced to an employee with a medical emergency related to the adoption of a child, for family care or bereavement purposes, or to care for a family member with a serious health condition. Request for advanced sick leave should be initiated by the employee on OPM Form 71 as soon as the need is identified through first line supervisor. The first line supervisor will facilitate the request for consideration by the Commander or designee for approval and then forward to the CPAC for processing.

B. Requests for advanced sick leave will normally be granted in accordance with governing regulations when all of the following conditions are met:

(1) the employee is eligible to earn sick leave;

(2) the employee's request does not exceed 240 hours, or for temporary employees only the amount to be earned during the period of temporary employment if appropriate;

(3) there is no reason to believe the employee will not return to work after having used the leave, and the employee has sufficient funds in his or her retirement account or any other source of monies owed to the employee by the government to reimburse the Agency for the advance, should the employee not return to work;

(4) the employee has provided acceptable medical documentation of the need for advanced sick leave; and

(5) the employee is not subject to leave restriction.

### **Section 12. Privacy**

CMD will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave. CMD may disclose such information subject to the Privacy Act of 1974 (552a) and 5 CFR 339 only for purposes of making informed management decisions and only to individuals who have a need to know. A need to know does not extend to secretarial or administrative staff.

### **Section 13. Leave for Family Purposes**

#### **A. Family and Medical Leave Act**

Employees are entitled to a total of twelve (12) administrative workweeks of unpaid Family Medical Leave during any twelve (12) month period for (a) birth of a son or daughter and care of the newborn; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) the care of a spouse, son or daughter or parent with a serious health condition; or (d) a serious health condition of the employee that makes the employee unable to perform the duties of his or her position.

#### **B. Family-Friendly Leave Policy**

Employees may request up to thirteen (13) days of sick leave for general family care or bereavement purposes in a leave year. "Family member" is defined as—spouse, and parents thereof; children, including adopted children, and spouses thereof; parents; brothers and sisters, and spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

### **Section 14. Leave without Pay**

A. Leave without Pay (LWOP) is a temporary non-pay status and absence from duty for a specific period of time, which may be granted to an employee in accordance with applicable laws, rules, and regulations. LWOP may be requested by the employee on OPM Form 71. Denials of requests for LWOP will be provided to the employee in writing normally on the OPM Form 71.

B. Employees are entitled to request LWOP in the following situations:

- (1) Military training or active duty for members of the Reserves or National Guard, who are not entitled to, or have exhausted their military leave (38 USC 4316(d));
- (2) Medical treatment for disabled veterans; and
- (3) Employees exercising LWOP rights under the Family and Medical Leave Act;

C. Upon return to duty after a period of LWOP, CMD, to the extent it has authority, will restore the employee to the position which the employee held prior to the leave or to a similar position at the same grade and pay within the commuting area.

### **Section 15. Leave for Bone Marrow and Organ Donation**

A. Employees may use up to seven (7) days of paid leave each year, in addition to annual and sick leave, to serve as a bone marrow donor.

B. Employees may use up to 30 days of paid leave each year, in addition to annual and sick leave, to serve as an organ donor.

### **Section 16. Religious Observances**

Time off for Religious Observance will be administered in accordance with Subpart J, 5 CFR 550.1001.

## **Section 17. Excused Absences (Administrative Leave)**

Administrative leave is an approved absence from duty without loss of pay and without charge to leave. Administrative leave is treated as time worked for all purposes except that the employee is excused from his/her regular assigned duties. Workload permitting, administrative leave may be granted to an employee in accordance with the following sections.

## **Section 18. Military Funeral Leave**

Upon request, an employee will be granted up to three (3) work days of leave without loss of or reduction in pay to make arrangements for his immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the armed forces in a combat zone.

## **Section 19. Brief Absences or Tardiness**

The immediate supervisor may excuse nonrecurring brief periods of absence or tardiness due to circumstances beyond the employee's control; e.g., adverse weather conditions, traffic and transportation issues.

## **Section 20. Blood Donations**

An employee may be granted up to four (4) hours administrative leave for purposes of travel, testing, and recuperation associated with donating blood. Additional administrative leave for this purpose may be approved in unusual circumstances, if needed.

## **Section 21. Court Leave**

A. In accordance with law and regulations, an employee with a regular scheduled tour of duty is entitled to administrative leave/court leave for:

(1) jury duty (including time spent waiting to be called or selected, and related travel time) when required by any Federal, District of Columbia, State or local court, in any State, territory, or possession of the United States; or

(2) serving as a witness (including time spent waiting to testify, and related travel time) when required by subpoena or directed to appear by any Federal, District of Columbia, State or local court, in any State, territory, or possession of the United States.

B. If an employee on court leave is excused from court with sufficient time to enable that employee to return to duty for, including travel time, the employee shall return to duty unless granted appropriate leave by CMD. Employees will request and receive approval prior to going on leave to the extent practicable, using procedures as set forth above.

## **Section 22. Workplace Closings**

Whenever it becomes necessary to close a workplace because of inclement weather or any other emergency situation, employees may be granted administrative leave for the duration of the closure.

### **Section 23. Voting and Voter Registration**

An employee will not be denied the opportunity to vote. As a general rule, when the voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, employees may be granted an amount of excused leave to vote which will permit the employee to report to work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser time amount of.

### **Section 24. Other Circumstances**

The Parties agree that the above reasons for granting administrative leave are not all inclusive and that there may be other situations supporting a request for the granting of such leave. Such requests shall be considered based on the reasons presented at the time; the employer may require documentation as appropriate to support the reasons for and/or the duration of such administrative leave requests.

### **Section 25. Military Leave**

A. Employees who are members of a National Guard or Reserve Unit may be granted up to fifteen (15) days per fiscal year to engage in active duty, active duty training, or inactive duty training, funeral honors duty (as described in Section 12503 of Title 10 and section 115 of Title 32), or engaging in field or coast defense training under Sections 502-505 of Title 32 as a Reserve of the armed forces or member of the National Guard, pursuant to applicable law.

B. Military leave shall be granted without any loss of pay. Military leave shall be credited to a full time employee on the basis of an eight (8) hour workday. The minimum charge to leave is one (1) hour as required by law. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay. Employees who request military leave for inactive duty training (which is generally two (2), four (4), or six (6) hours in length) will be charged only the amount of military leave necessary to cover the period of training and necessary travel. Members of the Reserves and National Guard will not be charged military leave for weekends and holidays that occur within the period of military service.

C. Inactive Duty Training (IDT) is authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods and equivalent training.

D. 5 U.S.C. 6323(b) provides 22 workdays per calendar year for emergency duty as ordered by the President, the secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation\* as defined in Section 101(a)(13) of Title 10, United States Code.

E. Members of the National Guard of the District of Columbia may be authorized unlimited military leave under 5 U.S.C. 6323(c), for certain types of duty ordered or authorized under Title 39 of the District of Columbia Code.

F. Reserve and National Guard Technicians may be authorized up to 44 workdays of military leave for duties overseas under certain conditions, as provided by 5 U.S.C. 6323(d).

G. Employees requesting approval of military leave as set forth herein shall provide a copy of the orders directing the employee to active duty and/or a copy of the certificate on completion of such duty.

H. The Agency will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301, *et al*, which applies to persons who perform duty, voluntarily or involuntarily, in the uniformed services, including the Army, Air Force, Navy, Marine Corps, Coast Guard, and Public Health Service Commissioned Corps, as well as the reserve components of each of these services. Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active duty training, and funeral honors duty performed by National Guard and reserve members as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

I. Service members returning from a period of service in the uniformed services must be reemployed by the "pre-service" employer if they meet all five (5) eligibility criteria as set forth in USERRA.

(1) the person must have held a civilian job;

(2) the person must have given notice to the Agency that he or she was leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;

(3) the 5-year cumulative total does not include inactive duty training (drills), annual training involuntary recall or retention on voluntary or involuntary active duty in support of war, national emergency, or certain operational missions or training or retraining requirements;

(4) the person must not have been released from service under dishonorable or other punitive conditions; and the person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment.

## **Section 26. Absence without Leave (AWOL)**

When CMD determines that it will charge an employee AWOL, it will notify the employee verbally or in writing of the intention to do so. The notification will be issued to the employee as soon as possible but no later than the end of the pay period for which the AWOL is recorded. Such notice will include the reason for charging AWOL and include the date and time period in question. AWOL will be changed to appropriate leave if it is later determined that the absence was excusable.

## **Article 18** **HOURS OF WORK**

### **Section 1. Purpose**

This Article shall be administered in accordance with Title 5, United States Code ("U.S.C."), Chapters 61; Title 5, Code of Federal Regulations, Parts 610 and this Agreement. The purpose of this Article is to prescribe the policies covering hours of work for all employees in accordance with applicable law and regulation.

### **Section 2. Administrative Workweek**

- A. Eight hours shall constitute the regular tour of duty workday for full time employees. The basic administrative workweek is five (5) eight-hour days during the period Monday through Friday with various shifts starting as early as 6:30 AM and ending as late as 6:00 PM. Employees may be required to work Saturdays and evenings depending upon CMD mission needs. Management reserves the right to modify the basic work week in order to accomplish the CMD mission. Work in excess of eight hours in a day or 40 hours in the basic administrative workweek will be considered overtime.
- B. Shifts will be established to give clinical employees (15) minutes prior to direct patient care to ensure that computers, medical equipment, and the exam room(s) are ready for use.
- C. CMD does not currently have an Alternative Work Schedule (AWS) approved at this time. An individual employee's request for AWS based on hardship will be considered on a case by case basis consistent with mission requirements. CMD will give notice to the Union regarding any changes to an employee's work schedule.

### **Section 3. Meal Periods**

Full-time employees shall be granted, on a non-paid basis, a meal period scheduled at or near the mid-point of the tour of duty for one (1) hour. The location of meal periods will be without Management direction. In instances where the supervisor determines that the mission requires that they work through what would have been a non-paid lunch period, they will be compensated with overtime pay or employee may request comp time.

### **Section 4. Break Times**

A 15 minute paid break should be afforded to employees for every four (4) hours of work. Break periods normally should be taken at or near the mid-point between the start of the employee's workday and the employee's meal period and at the mid-point between the employee's meal period and the end of the tour of duty. Break periods will not be scheduled to start or end the tour of duty or be a continuation for the meal period and are not cumulative. Lunch and break periods will be staggered in order to provide continuous patient care. If the supervisor requires additional work to be performed in excess of employees' normal work schedule, paid 15-minute break periods will be provided at the end of every two (2) hours of work or as soon as is practicable thereafter consistent with patient care.

## **Section 5. Change in Duty Hours.**

- A. In accordance with Article 8 of this agreement, Management will notify the Union President in writing of any proposed permanent change in work shifts, and the Union will have an opportunity to consult and/or negotiate any impact and implementation prior to implementing any changes in established tours of duty and hours of work.
- B. Changes to existing, posted schedules may be required when operational necessity dictates (i.e., unplanned absences, additional mission requirements, staff shortages, etc) or if it is determined the organization would seriously handicapped in carrying out its functions.
- C. Supervisors will make every effort to personally notify affected employees of all scheduling changes posted in employee's absence. Employees are required to provide reliable contact information when on Temporary Duty (TDY).

## **Section 6. Time Keeping**

At this time employees will not be required to use either automatic time recording equipment, or sign-in/sign-out sheets. Management reserves the right to establish an automated time keeping system, and will provide the Union with appropriate notice and an opportunity to negotiate impact and implementation prior to implementation.

## **Section 7. Holidays**

- A. Because of the nature of CMD work an employee may have to work on a federal holiday and will be compensated appropriately. All employees will be entitled to all Federal holidays, declared by law or Executive Order.

## **Article 19** **OVERTIME**

### **Section 1. General**

- A. When possible work will be planned and completed within the regularly scheduled workweek. However, it is recognized that regular overtime work and irregular or occasional overtime work may be required. Overtime must be requested and approved by Management in advance of being worked by an employee, excluding only bona fide emergency situations. Management reserves the right to request and assign overtime. The assignment of overtime will be based upon mission and workload requirements.
- B. Overtime for "non-exempt" employees is governed by the Fair Labor Standards Act (FLSA) and this Agreement. Overtime for "exempt" employees is governed by 5 USC 5542 (Title 5 Overtime) and this Agreement.
- C. All bargaining unit positions will be determined to be FLSA "exempt" or "non-exempt" at the time the position is classified. When classification actions are performed and results in a change to the FLSA determination, the changed FLSA determination for the affected employees will be made available by CMD to the employees and the Union within 7 days after receipt of the classification decision.
- D. When overtime work is directed, personnel will be compensated for overtime hours worked in accordance with the provisions of the FLSA, 5 U.S.C.5542, and other applicable statutes, and government-wide regulations, and provisions of this Agreement. When a given work situation is covered by the FLSA and another statutory procedure, the employee will receive the more favorable treatment.

### **Section 2. Distribution**

- A. When practicable, a rotational system will be established whereby every employee within a section or organizational unit with appropriate skills will be given the opportunity to participate in overtime work assignments in an equitable manner insofar as the requirements of an organization will permit. In certain specialized operations requiring specialized training, rotation of overtime assignments may not be possible due to the lack of qualified personnel. Suitable records of overtime worked and refused will be maintained by the supervisor or their designee to assure that each employee receives the same consideration. For record and rotational purposes, an offer of overtime that is declined will be considered equivalent to an offer to work overtime that is accepted and worked. In both cases, the employee's name will be placed at the bottom of the overtime roster. An overtime roster and record shall be maintained by the supervisor and can be reviewed by the Union.
- B. The success of an overtime roster system depends ultimately on voluntary employee cooperation. An employee's name on an overtime roster will not obligate the employee to restrict his/her activities. An employee may be required to report for duty if actually reached and ordered to report by Management officials. The following procedures apply:

(1) An overtime list will be developed, based on employee seniority as determined by Service Computation Date for Leave (SCD-L) with the most senior employee at the top.

(2) When employees are needed for overtime, the overtime duty will be offered to the employee at the top of the list, if that employee has the skills required.

(3) Upon acceptance or refusal of the overtime duty, this employee will then rotate to the bottom of the list.

(4) The next employee then moves up to the top of the list, and the process is repeated.

(5) If all employees decline the overtime then the first available employee reached will work the overtime.

C. Management shall not use direct or indirect influence to coerce the employee into taking compensatory time in lieu of overtime pay where regulations require payment of overtime.

### **Section 3. Overtime Pay**

Overtime pay for FLSA non-exempt employees is equal to one and one-half times the employee's regular hourly rate of pay. However, if an exempt employee's rate of pay exceeds the minimum applicable rate for a GS-10 (i.e., GS-10, step 1), the overtime rate will be GS-10, step 1.

### **Section 4. Types of Overtime**

#### **A. Regular Overtime**

Any overtime work scheduled in advance of the administrative workweek as part of an employee's regularly scheduled workweek is considered regular overtime. An employee shall be compensated for every minute of regular overtime work in accordance with the provisions of OPM regulations.

#### **B. Irregular or Occasional Overtime**

Overtime work that was not scheduled in advance of the administrative workweek and made a part of an employee's regularly scheduled workweek is considered irregular or occasional overtime. Irregular or occasional overtime work is paid in the same manner as regular overtime work. The non-exempt employee may elect to receive compensatory time off in lieu of overtime pay in accordance with this article. Fifteen (15) minutes increments will be the smallest of an hour used for crediting irregular or occasional overtime work. Overtime worked will be paid in 15 minute increments and rounded up to the full quarter fraction of the hour.

### **Section 5. Compensation**

A. Employees called to work outside of their basic workweek shall be paid a minimum of two (2) hours pay, regardless of whether the employee is required to work the entire two (2) hours.

B. Work related telephone calls after duty hours will be compensated for as follows: The first telephone call shall result in 15 minutes of appropriate rate of pay. Subsequent calls within 15 minutes of the first call shall not result in additional pay. Each call that falls outside of 15 minutes of the first call will result in an additional 15 minutes of pay. The 15 minute increments will be posted to the time card and credited as compensatory time or paid at the appropriate rate of pay as elected by the employee and as applicable regulations permit. The employee will document the time, duration, and caller's name.

## **Section 6. Breaks**

Employees who work overtime shall be allowed a 15 minute paid break for each four (4) hours of overtime worked. Management agrees to the maximum extent possible to allow the employee a meal time, at the employee's own expense and on his/her own. It is understood that a meal period is not to be considered as duty time in these situations.

## **Section 7. Disputes**

The negotiated grievance procedure is the exclusive remedy for the resolution of disputes concerning overtime. When an employee is denied overtime work in violation of the provisions of this collective bargaining agreement, the employee may receive back pay plus interest for the overtime work not performed.

## **Section 8. Notice**

In the offer or assignment of overtime on days outside of the basic workweek, CMD will notify the affected employee as early as practicable, except in cases of unforeseen mission requirements. When overtime is to be performed on a holiday, normally at least one day of advance notice will be given to the employee affected, except in cases of unforeseen mission requirements.

## **Section 9. Impact on Leave**

A. Leave usage or balance will not be a factor in offering or assigning employee's overtime unless the employee is on leave restriction. However, employees in a leave status will not be offered or assigned overtime until they return to duty, unless they are needed for unforeseen mission requirements. Overtime in conjunction with leave usage in the same pay period is permitted.

## **Section 10. Compensatory Time in Lieu of Overtime Pay**

A. Compensatory time is time off from work that may be granted to an employee in lieu of payment for irregular and occasional overtime. Compensatory time earned is equal to the amount of time spent in overtime work, e.g., one hour and fifteen minutes of overtime work yields one hour and fifteen minutes of compensatory time.

B. CMD may announce in advance of offering overtime that it will only compensate employees with compensatory time and that overtime pay will not be available. In that case, a non-exempt

employee may decline the offer of overtime. Such declination will not be held against the employee and the declination will not affect eligibility for future offers of overtime.

C. Compensatory time earned normally will be used within 4 pay periods. All compensatory time not scheduled and used by the employee by the end of the year will be converted to overtime pay, computed using the employee's rate of pay as of the when the overtime pay was earned.

## **Section 11. Compensation for Time Spent in Travel**

A. Time spent in travel will be considered hours of work, and thus compensable, if:

- (1) The employee is required to travel during regular working hours;
- (2) The employee is required to drive a vehicle or perform other work while traveling;
- (3). The employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
- (4) The employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on nonworking days that correspond to the employee's regular working hours.

B. CMD shall credit an employee, on an hour-for-hour basis, with compensatory time off for time in a travel status if:

- (1) The employee is required to travel away from the official worksite; and
- (2) The travel time is not otherwise compensable hours of work.

G. Federal Government Travel regulations apply for all bargaining unit employees who are required by the agency to travel for work.

## Article 20

### **DETAILS, REASSIGNMENTS AND VOLUNTARY CHANGES**

#### **Section 1. Details**

A. A detail is the temporary assignment of an employee to a different position or to a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed.

B. Documentation. Employees shall be recognized for the work they perform. Therefore, details in excess of thirty (30) days will be documented and maintained as a permanent record in the employee's Official Personnel Folder (OPF). In addition, employees may request amendment of their OPF with memoranda, which document details of less than thirty (30) days, in accordance with OPM guidelines, as set forth at 5 CFR Part 297.

#### **C. Higher Graded Duties**

Details to higher graded positions or to positions of known promotion potential will be accomplished in accordance with the procedures contained in Article 15, Merit Promotion.

#### **D. Lower Graded Duties**

Performance of lower graded duties officially assigned by CMD which are outside an employee's position shall not result in loss of recorded or credited time in the grade of the employee's permanent position. Such performance of lower graded duties shall not be the basis for a lowered assessment or appraisal of the employee, nor will it adversely affect the employee's ability to bid for and be considered for any job for which the employee would have been eligible had the employee not been detailed to those duties.

#### **E. Appropriate Use of Detail**

Details shall be used to meet temporary needs of the CMD's work program. Details will be rotated fairly and equitably among qualified employees. Details will not be used to reward or punish employees. Details will also be used to help provide career development opportunities for employees. Volunteers for details shall be given prompt and fair consideration.

The following will apply when filling non-competitive details in excess of 30 calendar days:

- CMD will determine the qualifications of the position of detail, as well as any task-related qualifications of the work to be performed. Only objective and job-related qualifications will be applied under these procedures.
- CMD will determine the area of solicitation in which to post the detail.

- Postings will be for a reasonable period of time to allow all eligible employees the opportunity to become aware of and apply for details.

## **Section 2. Reassignments**

A. Reassignment means a change from one position to another, without promotion or demotion, while the employee is serving continuously within the same agency. Because they are permanent, all reassessments will be documented in the employee's OFF.

B. Requests for voluntary reassessments shall be given prompt and fair consideration.

C. An employee reassigned to a different post of duty, which will require a change in transportation arrangements, will be given written notification at least fifteen (15) workdays in advance.

D. When an employee is reassigned to a different position, the employee will be given a reasonable period in which to become proficient.

F. The Union will be provided a listing of all bargaining unit employees reassigned each quarter. The listing will describe the nature of the reassignment, the new duties or position description assigned to the employee before and after the reassignment and the promotion potential of the employee's old and new positions.

## **Section 3. Voluntary Changes**

Employees may voluntarily request changes in their work assignments. All such requests are subject to management's right to assign employees work, and to determine the personnel by which CMD operations shall be conducted. Such requests will be considered by CMD and a good faith effort will be made to balance the needs of the employee with the CMD's program needs. Employees may voluntarily request changes in their work assignments at any time. Any voluntary changes will be processed in accordance with applicable laws, rules, regulations, and this Agreement.

## **Section 4. Relocation Expenses**

Employees affected by a management directed reassignment involving a change in duty station shall be entitled to relocation expenses in accordance with the Federal Travel Regulations.

## **Article 21** **AWARDS**

### **Section 1. Incentive Awards**

A. Performance awards (that is monetary awards earned as a result of an employee's annual performance rating); Quality Step Increases (QSI); Time Off Awards; Special Act Awards, including Honorary; Suggestion; and Invention Awards; are granted by the Agency on the basis of merit, and within applicable budget limitations, to individuals or groups. Such awards will be granted in a fair, consistent, and objective manner without discrimination.

B. Upon written request and in accordance with 5 U.S.C. 7114(b)(4), and Article 6, Union Rights, CMD will provide the Union with any information that is normally maintained by the Agency and is reasonable and necessary to process a grievance.

C. The fact that an employee is the subject of a conduct investigation or has been the subject of a disciplinary action during the rating period will not preclude a performance award that would otherwise be granted unless such preclusion is necessary to protect the integrity of the Federal service. The merits of CMD's decision to withhold an award are subject to the negotiated grievance procedure.

### **Section 2. Performance Awards and Quality Step Increases (QSI)**

A. Performance awards and QSIs for bargaining unit employees will be allocated and distributed in accordance with Section 1 of the Article.

B. All awards recommended under this Article shall be subject to review and approval by the CMD Commander or appropriate level management authority. Such approval shall not be withheld unless the decision is based on criteria that are uniformly applied to all employees.

### **Section 3. Special Act and Service Award**

A. Per Army Regulation (AR) 672-20, the purpose of the Special Act or Service Award is a cash award given to recognize a meritorious personal effort, act, service, scientific or other achievement accomplished within or outside assigned job responsibility.

B. Special Act or Service Award for bargaining unit employees will be distributed as described in this Article.

### **Section 7. Time Off as Incentive Award**

A. The purpose of the Time Off Award (TOA) is to increase employee productivity and creativity by rewarding employee contributions to the quality, efficiency, or economy of Government operations. The award is also intended to increase the quality of work life for all employees, as well as encourage and recognize one time, non-recurring accomplishments above or beyond normal job requirements.

B. A TOA provides an employee with an excused absence without charge to leave or loss of pay. All bargaining unit employees shall be eligible for a TOA unless an employee is or was on a leave restriction letter within the previous twelve (12) months.

C. During any single leave year, employees may be granted up to the average total number of hours that an employee works during a biweekly scheduled tour of duty. For example, a full time employee is eligible for a total of eighty (80) hours of time off; and a part-time employee working an average biweekly schedule of sixty-four (64) hours is eligible for a total of sixty-four (64) hours of time off.

D. To encourage the use of TOAs for timely recognition of an employee's contribution, supervisors may grant up to eight (8) hours of time off without higher level review or approval.

E. The minimum amount of time off for any contribution shall be one (1) hour. The maximum TOA for any single contribution shall be forty (40) hours for a full-time employee. A part-time employee will be granted a TOA not to exceed his or her weekly work schedule.

F. A TOA may be used in single blocks of time or in one (1) hour increments, subject to approval by management.

G. A TOA must be scheduled and used within one (1) year from the date the award was granted or it will be forfeited. TOAs should be scheduled so as not to conflict with use of "use or lose" annual leave. When physical incapacitation for duty occurs during a period of time when an employee is using his/her TOA, sick leave will be granted for the period of incapacitation and the TOA will be scheduled at another time.

## **Section 8. Suggestion Program**

Employees' suggestions to improve work processes and working conditions provide a valuable and unique source of ideas which can greatly increase the efficiency of the service and/or employee morale.

## Article 22

### **EQUAL EMPLOYMENT OPPORTUNITY**

#### **Section 1. Policy**

CMD and the Union affirm their commitment to the policy of providing equal employment opportunity (EEO) to all employees and to prohibit discrimination on the bases of race, color, religion, sex, age, national origin, or disability. In addition, the parties recognize their commitment to the policy of prohibiting discrimination on the basis of marital status, sexual orientation, parental status and/or political affiliation as well as to the policy of prohibiting retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, the Equal Pay Act, and all other laws and regulations related to unlawful discrimination.

#### **Section 2. Equal Employment Opportunity Program**

A. CMD's Equal Employment Opportunity (EEO) Program shall be designed to promote equal employment opportunity in every aspect of CMD's personnel policy and practice in accordance with applicable law and government-wide rules and regulations. The Agency will have a positive, ongoing and results-oriented program of affirmative action and will ensure that all managers and employees are trained accordingly. In addition to required mandatory training, additional training is available upon request from the Presidio of Monterey (POM) EEO Office. The training will be designed:

- (1) To identify and eliminate barriers that impair the ability of individuals to compete in the workplace because of race, color, religion, sex, sexual harassment, national origin, age, physical or mental disabilities and/or marital or parental status; and
- (2) Ensure that unlawful discrimination in the workplace is promptly addressed and corrected.

B. Consistent with EEO regulations as administered by the POM EEO Office, the EEO program shall include, but not be limited to:

- (1) Providing prompt, fair, and impartial processing of complaints at the counseling and complaint stages, and expeditious adjudication of complaints of discrimination filed through the EEO administrative complaint process or the negotiated grievance procedure;
- (2) Reviewing, evaluating, and training managerial and supervisory personnel to ensure enforcement and implementation of the equal employment policy and program;
- (3) Maintain a system for periodically evaluating the effectiveness of the Agency's overall EEO effort;
- (4) CMD will adhere to the POM EEO Alternate Dispute Resolution (ADR) program which must be available for both the pre-complaint process and the formal complaint process.

### **Section 3. Discrimination Complaints**

A. A CMD employee who believes he/she has been discriminated against on the basis of race, color, religion, sex, national origin, age, disability, or reprisal for engaging in EEO activity may file an EEO complaint through the POM EEO Office or grievance pursuant to this Article. The employee must contact an EEO counselor within 45 calendar days of the date of the alleged discriminatory action or within 45 calendar days of when the employee was made aware of the alleged discrimination. A grievance must be filed within 15 days as stated in Article 10, Negotiated Grievance Procedure. Consistent with 29 CFR 1614, a formal EEO complaint must be filed within 15 calendar days of receipt of the notice of right to file from the EEO counselor.

B. The Union may file a group grievance on behalf of employees who allege they have been or are being adversely affected by a personnel management policy or practice that discriminates against the group on the basis of their race, color, religion, sex, national origin, age, disability, or EEO activity. The Union must file the grievance within 15 days, as stated in Article 10. A grievance concerning a continuing practice or condition, including matter involving discrimination, may be presented at any time, as stated in Article 10.

C. An employee has the right to be accompanied, represented, and advised by a representative of his/her choice at any stage of the complaint process under the EEO administrative complaint process or negotiated procedures. The employee will designate his/her personal representative in writing.

D. If a change in working conditions arises as a result of an EEO settlement; CMD will notify the Union and will bargain upon the Union's request in accordance with Article 8, Mid -Term Bargaining.

### **Section 4. EEO Complaint Elections**

A. Employees with complaints of discrimination on the bases of race, color, religion, sex, national origin, age, disability, or previous EEO activity may elect to have their complaints resolved by using either the negotiated grievance procedure as provided in this Agreement or the statutory complaint process, but not both.

B. Consistent with Article 10, an employee shall be deemed to have made an election under either the statutory procedure or the negotiated grievance procedure at such time as the complainant files a written grievance or files a formal written complaint under the statutory EEO complaint procedure, whichever comes first. A discussion with an EEO Counselor in no way precludes the filing of a grievance that is otherwise timely.

C. At the conclusion of the informal interview process, the EEO counselor shall inform employees in writing of their right to file a grievance, an EEO complaint, or an appeal to MSPB (where applicable) with a written description of the procedures and the time limits for each option. EEO counselors will provide an employee a written description of the procedures for each of the above.

## **Section 5. Participation in EEO and Affirmative Employment Plans**

- A. The establishment and implementation of EEO Affirmative Employment Plans and related plans is a fundamental Agency objective.
- B. The Agency will continue to provide overall management support and budgetary planning to achieve affirmative action objectives and to establish and to maintain effective EEO programs that cover all aspects of equal employment opportunity throughout the Agency, as outlined in 29 CFR 1614.102 and EEOC Management Directive 715 (MD-715).

### **C. EEO Committee**

It is agreed that if there is a POM EEO Committee established the Union may appoint one of their members to serve on the Committee.

## **Section 6. Information and Data**

The Agency shall make available to employees written information describing the Agency's EEO programs, the Affirmative Employment Plan, and the EEO complaint process.

## **Section 7. Collateral EEO Counselors**

- A. Names, telephone numbers and locations of EEO counselors, an EEO Complaints Process chart, and the Agency's EEO policy statement will be posted on official bulletin boards in locations frequented by bargaining unit employees (e.g., break room or cafeteria). This information will also be available on the Agency's intranet or website.
- B. CMD will ensure full cooperation of all CMD personnel with EEO Counselors and EEO personnel in the processing of complaints at all stages of the EEO complaint process or grievance process, as applicable, under this Agreement.
- C. EEO Counselors shall be guided in their duties in accordance with 29 CFR 1614.105 and applicable Agency policies, rules and regulations. CMD employees are encouraged to contact the POM EEO Office with concerns or questions regarding the EEO process.

## **Section 8. Accommodation of Individuals with Disabilities**

- A. Under the American with Disability Act, a "qualified" disabled employee is entitled to reasonable accommodation. "Qualified person with a disability" means, with respect to employment, a person with one or more impairment(s) who, with or without reasonable accommodation, can perform the essential functions of the position in question, without endangering the health and safety of him/herself or others and who:

- (1) Meets the experience and/or education requirements (which may include passing a written test) of the position in question; or
  - (2) Meets the criteria for appointment under one of the special appointing authorities for persons with disabilities.

B. An employee seeking reasonable accommodation should submit their written request accompanied with supporting medical documentation to their immediate supervisor. The Agency will respond to an employee's request for reasonable accommodation within five (5) workdays of receiving the request. If additional time is necessary to respond to the request, the reason(s) for the delay and the approximate timeframe for the response will be provided to the employee in writing. If the request is denied, the reason(s) for the denial will be provided to the employee in writing.

C. CMD agrees to consider reasonable accommodations, for example: modifying work schedules; acquiring or modifying equipment or devices; varying work hours in accordance with Article 18, Hours of Work; and reassigning or transferring employees to another position.

D. The Parties agree that in many cases, changes in the work environment and accommodations enable persons with disabilities to more effectively perform their job duties.

E. **Pregnancy and Temporary Disabilities**

In certain limited circumstances, a pregnant employee who is experiencing substantial complications that limit activity may be considered disabled under the American with Disabilities Act (ADA) and entitled to accommodations.

**Section 9. Sexual Harassment**

A. Sexual harassment is a form of sex discrimination which undermines the integrity of the employment relationship and adversely affects employee opportunity. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual behavior. CMD will provide all bargaining unit employees a work atmosphere free from sexual harassment and make employees aware of the Agency's sexual harassment policy.

B. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) submission to or rejection of such conduct by an individual is used as the basis for career or employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

C. Allegations of harassment will be taken seriously and investigated promptly. Individuals are encouraged to contact their supervisor to resolve issues of harassment at the lowest level or to contact the EEO Office.

## **Section 10. Information and Notice to Union and Employees**

A. Upon request, CMD will provide the Union copies of regulations in CMD's possession that describe the discrimination complaints process and statistical reports concerning discrimination complaints filed by bargaining unit employees.

B. If an employee elects to use the grievance procedure with Union representation, instead of the statutory procedure for filing a discrimination complaint, the Union and Management shall have the right to discovery, as described in the EEOC's regulations. Provision of any information under this Article does not impact any rights the Union may have under 5 USC 7114 (b) and the Freedom of Information Act.

C. The Union will be notified of and provided with an opportunity to be present in any formal discussion affecting the terms and conditions of employment at such time in the processing of any EEO complaint as required by law. The Agency will notify the Union designee as far in advance of the formal discussion as possible under the circumstances and inform him/her of the nature of the original complaint; e.g., age discrimination. The Union representative will be acknowledged at the start of the formal discussion and will be given an opportunity to participate, which includes the opportunity to speak, comment, and make statements.

## **Article 23** **WITHIN GRADE INCREASES**

### **Section 1. Policy**

A. Employees will receive a Within-Grade Increase (WIGI) upon completion of the required waiting period, provided:

- (1) They have achieved an acceptable level of performance; and
- (2) They have not received an equivalent increase in pay during the required waiting period.

B. A notice of a proposed adverse/disciplinary action that is not based on performance is not a bar against a favorable determination of acceptable level of competence for purposes of WIGI.

### **Section 2. Procedures for WIGI Determinations**

A. Normally, a WIGI will be effective on the first day of the first pay period following the end of the required waiting period.

B. An employee will be notified that their WIGI may be withheld:

- (1) During the most recent progress review, as described in Article 13, Performance Management; or
- (2) In no event later than at least 60 days before the end of the required waiting period for eligibility for a WIGI that his/her performance is below an acceptable level of competence and that unless his/her performance improves, the WIGI will be denied.

C. If at the end of the required waiting period, the employee's performance is not at an acceptable level of competence for the purpose of approving the WIGI, the employee will be given a written notice which will include:

- (1) A statement that the employee's work has been determined to be of less than an acceptable level of competence;
- (2) A statement which identifies the performance elements in which the employee's performance was less than fully successful;
- (3) A statement that the employee has the right to request, in writing, a reconsideration of the negative determination, provided the request is made within 15 days of the employee's receipt of the negative determination;
- (4) The name and title of the reconsideration official to whom the employee may submit a request;

(5) A statement that the employee may have a Union representative in presenting a request to the reconsideration official;

(6) A statement that the employee and the Union representative, if designated, may appeal the basis for the negative determination in person and/or in writing; and

(7) A statement that the employee will have a reasonable amount of duty time to review the materials relied upon in reaching the negative determination and to prepare a response.

D. A decision on reconsideration will be made within 30 days from the date of the request or from the date of an oral presentation to the reconsideration official, whichever is later. If the reconsideration official determines that the employee has met an acceptable level of competence, the WIGI will be effective as of the first day of the first pay period after that determination.

E. If the reconsideration official upholds the negative determination, the employee may file a grievance under Article 10, Negotiated Grievance Procedure. The grievance would be filed at the final step of the grievance procedure.

F. After a WIGI has been withheld, CMD may grant the WIGI at any time after it determines that the employee has demonstrated sustained performance at an acceptable level of competence. In such cases, the WIGI will become effective the first day of the first pay period after the acceptable determination is made. Performance at or above the fully successful level for 13 weeks is sufficiently sustained performance to warrant the granting of a WIGI.

## **Article 24** **RETIREMENT**

### **Section 1. Purpose**

This Article shall be administered in accordance with Title 5, Code of Federal Regulations, Part 831 and this Agreement. The purpose of this Article is to clarify certain policies covering retirement for all employees in accordance with applicable law and regulation.

### **Section 2. Retirement**

#### **A. Retirement Seminars**

At least once a year, the Agency will solicit all employees to determine if there is an interest in attending a retirement seminar. The retirement seminar shall include supplemental informational materials and resources such as the OPM web site and retiring counseling. Employees in the bargaining shall be notified by the Agency that as a result of this Agreement, they are entitled to attend one (1) such retirement planning program on duty time.

#### **B. Voluntary Separation**

Employees who separate voluntarily (except by retirement) will be informed by the Agency, at the employee's request, of their right to file for disability retirement. Employees are encouraged to contact the Civilian Personnel Advisory Center (CPAC) with any questions regarding retirement.

#### **C. Involuntary Separation**

Employees, who are involuntarily separated as a result of an inability to perform their assigned duties or misconduct which can be attributed to a disabling condition, will be notified by the Agency in the decision letter of their right to file for disability retirement within one (1) year after the date of separation.

#### **D. Withdrawal Retirement Application**

An employee may withdraw a retirement application at any time prior to its effective date, provided the withdrawal is communicated to the Agency in writing and is received by the Agency prior to its having made a commitment to fill the position of the retiring employee.

## **Article 25**

### **HEALTH, SAFETY, AND WELLNESS**

#### **Section 1. General**

- A. Maintaining safe and healthful work environments as a shared value by the Union and CMD, is necessary for the accomplishment of the CMD's mission and contributes to a high quality of life for employees. Management and the Union recognize that a safe and healthy work environment is the responsibility of each and every CMD employee. CMD will provide and maintain conditions and places of employment that are free from recognized hazards and unhealthful working conditions, consistent with the applicable requirements of 29 U.S.C. 668 *et seq.* (the Occupational Safety and Health Act of 1970), Executive Order 12196, 29 Code of Federal Regulations (CFR) Part 1960, and other applicable safety and health codes.
- B. Nothing herein will prevent the Union from initiating additional negotiations to address safety and health issues in accordance with Article 8 of this Agreement.
- C. Both parties recognize the importance of safety awareness. CMD will determine the type, duration and frequency of safety related training.

#### **Section 2. CMD Safety Committee**

- A. Within 30 days of the effective date of this Agreement, the CMD Safety Committee will be established. The CMD Safety Committee will consist of an equal number of management and bargaining unit employees. Bargaining unit employees shall be appointed by the Union.
- B. Union appointed members of the CMD Safety Committee will be on official time to prepare and participate on the committee.
- C. The CMD Safety Officer will be a primary point of contact for all safety and/or health initiatives CMD for employees.
- D. The principal mission of the CMD Safety Committee will be the oversight of CMD's Occupational Safety and Health Program. The duties of the Committee will include:
  - (1) Reviewing and making recommendations to the CMD Commander regarding CMD's occupational safety and health program;
  - (2) Making recommendations to the CMD Commander concerning health and safety training for CMD employees;
  - (3) Recommending the facilitation and implementation of new processes and procedures, as appropriate;
  - (4) Recommend cross-cutting installation health and safety issues to the CMD Commander;

(5) Reviewing the handling of hazardous materials within CMD and making recommendations as appropriate.

E. The CMD Safety Committee will meet at CMD's facilities as needed depending on circumstances. At its initial meeting, the CMD Safety Committee will establish operational ground rules necessary to carry out its mission.

F. The Agency will release the results of all health and safety testing conducted within CMD to all employees in a timely manner.

G. The CMD Safety Committee will be given copies of all CMD communications on safety and health matters as well as all safety manuals and publications.

### **Section 3. Personal Protective Equipment**

A. Personal Protective Equipment (PPE), as required by appropriate Federal standard's to protect employees from hazardous conditions encountered during the performance of their official duties, will be provided at no cost to employees required to wear PPE.

B. Assessments to determine the proper use or replacement of PPE, based on Joint Commission on Accreditation of Healthcare Organization (JCAHO) standards, will be conducted by CMD in each workplace as least on an annual basis. The Union will be provided with a copy of the JCAHO standards for PPE.

D. At a minimum, CMD will provide employees with information on PPE.

### **Section 4. Unsafe/Unhealthful Conditions**

A. Any employee, group of employees, or Union representative of employees who believes that an unsafe or unhealthful working condition exists in any worksite, is encouraged to report such condition to the employee's supervisory chain. An inspection of potentially serious and other conditions will be made within the timeframe established by applicable regulations. All CMD determinations and actions on imminent danger reports will be put in writing to the reporting employee and the Union explaining the basis for the findings and actions within the timeframe established by applicable regulations (currently within 15 days from the date the report was made to the Agency if no inspection is to be done or within 15 days after the completion of an inspection under 29 CFR 1960.28).

B. When CMD or other appropriate authority determines that a dangerous or potentially dangerous condition exists at a worksite, employees at that worksite and the Union will be notified as soon as practicable so that precautionary steps can be taken.

C. CMD shall promptly abate any unsafe and unhealthful working condition. Toward this end, any equipment, devices, structures, clothing, supplies, or instruments that are found to be unsafe will be removed from service, locked-out, and/or tagged-out or rendered inoperative, as appropriate.

D. If there is an emergency situation in a worksite, the paramount concern is for the preservation of safety and health. Should it become necessary to evacuate an area, CMD shall take precautions to insure the safety and health of employees.

E. The CMD Safety Committee will be timely notified and consulted regarding the development and implementation of abatement plans and all personnel subject to the hazard shall be advised of interim measures in effect and shall be kept informed of subsequent progress on the abatement plan.

F. If the abatement plan cannot be immediately implemented, the CMD shall inform affected employees of the interim measures that will be instituted.

J. If the conditions cannot be immediately corrected, employees will be assigned work in a safe and healthy area, or will be excused without charge to leave until the condition is corrected or deemed safe by the appropriate authority.

H. There will be no application of insecticides, carpet glue, Heating Ventilation and Air Conditioning (HVAC) cleaning agents, paint, or other like construction or maintenance chemicals during work hours in enclosed spaces occupied by employees.

I. CMD will, consistent with its right to assign work, make a reasonable attempt to reassign tasks of employees on a temporary basis who provide acceptable medical documentation that particular tasks presently assigned to an employee pose heightened health hazard to that employee.

## **Section 5. Imminent Danger Situations**

A. The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures.

B. An employee may decline his or her assigned task because of reasonable belief that, under the circumstances, the task poses an imminent danger.

## **Section 6. Work-Related Injuries and Illnesses**

A. Employees have the right and are encouraged to report any and all injuries that are work-related to a supervisor or manager. Upon receiving an accident report of work-related injuries and illnesses, and in situations where the hazardous condition(s) cannot be identified and abated immediately resulting from a hazardous condition(s) that cannot be identified and abated immediately, CMD shall promptly notify the CMD Safety Officer and Union President. If an inspection is determined necessary, report the results to the employee, CMD Safety Committee, and Union President. If no inspection is conducted, provide notice of the decision and explanation to the employee, CMD Safety Committee, and Union President.

B. CMD will take appropriate action to ensure that:

(1) The employee has the opportunity to report to the CMD's physician or his/her personal physician for treatment, completion of necessary reports, etc.;

(2) Appropriate Agency personnel are promptly notified to ensure timely processing of necessary reports and employee claims. The Agency will provide assistance to employees in preparing necessary forms and documents for submission to the Office of Workers' Compensation Programs (OWCP), additionally employees will be informed of their rights under the Federal Employees' Compensation Act (FECA), as amended.

C. Prior to an employee returning to duty from sickness or injury he or she must provide medical documentation returning them to work with or without temporary limitations placed on his or her job duties, as substantiated by a medical doctor's certificate. If limited duty is required, CMD will make a reasonable effort to accommodate the limitations as practicable. If CMD can not accommodate the employee, he or she may be placed on continuation of pay, if eligible, or in an appropriate leave status at the employee's option.

D. CMD shall forward to the CMD Safety Committee all investigative reports of accidents involving employees. The report shall conform to the requirements established by applicable regulation (currently 29 CFR 1960.29) within twenty-four (24) hours of its completion.

E. CMD will continue its on-going effort to reduce injuries resulting from repetitive movement as directed by appropriate laws and regulations:

(1) Making training and information available to employees concerning how to reduce and eliminate the incidence of repetitive movement injuries;

(2) Providing appropriate ergonomic furniture designed to reduce or prevent such injuries;

## **Section 7. Personal Security**

A. Security Alerts shall be issued timely to bargaining unit employees for incidents at or in parking areas in close proximity to CMD facilities (owned or leased) at which employees work that involve: (1) armed robberies (attempted or actual); (2) assaults (simple or aggravated); (3) murder (attempted or actual); (4) rape (attempted or actual); (5) shootings (attempted or actual); (6) vandalized or stolen automobiles; (7) abductions (attempted or actual); and (8) car-jackings (attempted or actual).

B. CMD shall notify the CMD Safety Committee and the Union President of any bomb threat received at or about any facility housing employees as soon as practicable, normally at the same time .

C. All telephones in Offices will be labeled with appropriate emergency numbers.

## **Section 8. Workplace Violence**

A. Violence constitutes a health and safety hazard in the workplace. Exposure to violence can result in both physical and emotional harm to employees. Although it is the employer's obligation to provide a safe and secure working environment, CMD and Union agree to work together to raise awareness to prevent workplace violence issues.

B. CMD shall provide to all employees with information regarding violence in the workplace.

C. All employees who report harm resulting from an incident of workplace violence shall:

(1) Have access to immediate first aid and transportation to the nearest medical facility, as appropriate;

(2) Have access to emotional support, including but not limited to traumatic stress debriefing and counseling under the Employee Assistance Program; and

(3) Be provided with information on filing a claim for workers' compensation benefits.

## **Section 9. Emergency Preparedness**

A. CMD employees shall have an emergency preparedness plan that establishes procedures for safeguarding lives in the event of fire, earthquake, bomb threat, tornado, flood, hurricane, terrorist attack, biological threat, chemical threat, hostage-taking, nuclear explosions and radiological contamination, or similar natural or man-made emergency. The emergency preparedness plan shall, at a minimum and consistent with security requirements, include:

(1) A facility threat assessment for each worksite;

(2) Identification of a supervisor or manager who will be physically present at each worksite for employee direction during all scheduled work hours in case of emergency;

(3) The same level of protection to employees with special needs as all other employees by addressing the concerns of employees who may need assistance during an emergency;

(4) Suggested contents of personal safety kits to keep at work;

(5) Emergency worksite evacuation plans tailored to meet the unique features of each worksite; and

(6) Periodic evacuation drills.

B. CMD shall hold periodic information sessions with all employees to keep them current on the contents of the emergency preparedness plan.

C. If an Emergency Preparedness Plan has not already been completed, it shall be provided to the CMD Safety Committee within 45 days of the effective date of this Agreement. If the plan

has already been completed it shall be provided to the Union President within 14 days of the effective date of this Agreement. CMD will respond substantively in writing to all comments made by the Union within seven (7) days of the Union's submission. The Union may request bargaining on any matters that are within the scope of bargaining, in accordance with Article 8, Mid-Term Bargaining.

D. CMD shall make reasonable efforts to assure that each worksite has adequate personnel, available to administer cardio-pulmonary resuscitation (CPR). CMD will provide CPR shields and masks for employees administering CPR. Training for CPR certificate and/or recertification will be at no cost to employees.

E. The first concern when an employee is injured on the job is to make certain that the employee gets prompt emergency medical aid.

F. If a co-worker volunteers to transport the employee, there will be no charge to leave for the co-worker.

#### **Section 10. Hazardous Materials**

A. CMD will maintain a current list of all hazardous materials in each location and will maintain paper copies of current Material Safety Data Sheets (MSDS) in each workplace where such materials are used or stored.

B. CMD will identify each employee by worksite using hazardous chemicals in the performance of his/her duties.

C. CMD will make an assessment for each of the hazardous chemicals and materials used at worksites and determine if a less hazardous chemical could be substituted.

D. All chemicals and hazardous materials purchased shall require MSDS with the purchase.

E. Employees will be given information at least quarterly on the safe handling and disposal of each hazardous chemical and material used in the worksite.

F. An appropriately qualified CMD representative will perform a physical inventory and audit in accordance with federal regulations report to the Commander or designee on the compliance requirements, training needs of persons handling hazardous chemicals, the types and quantities of hazardous waste generated, disposal requirements, and the Agency's performance in all these areas in the facilities under their jurisdiction.

G. All employees exposed to hazardous chemicals and materials at work will be informed of their potential exposure to each hazard, the amount of exposure, the level of safe exposure (if there is a standard), and the risks associated with the hazardous chemicals and materials to which they were exposed.

#### **Section 11. Video Display Terminals**

A. "Video Display Terminal" (VDT) refers to a work processor or computer terminal that

displays information on a television-like screen. CMD will provide employees who are required to use computers on the job with ergonomic chairs and workstations, lighting, and keyboard wrist rests which meet ergonomic design criteria.

### **Section 12. Indoor Air Quality**

A. Employees are entitled to work in an environment containing safe and healthful indoor air quality. CMD shall provide safe and healthful indoor air quality by conforming to laws, guidelines, regulations, and/or policies issued by Federal regulatory agencies such as OSHA, EPA, and GSA.

B. On-site investigations/inspections will be conducted when a problem concerning indoor air quality or building related illness is formally brought to the CMD's attention.

### **Section 13. Renovation and Construction**

Wherever CMD decides to alter the physical work site of employees represented by the Union, the Union will be notified in advance in accordance with Article 8, Mid-term Bargaining and may negotiate all aspects of the renovations that may impact on employees.

### **Section 14. Wellness Program**

Employee wellness and the investment in programs to maintain employee health, contribute directly to sustained productivity and reduction of lost employee time due to illness. Therefore, CMD will encourage programs in such areas as weight reduction, stress reduction and management, nutritional counseling, smoking cessation, prevention of injuries, health screenings, and exercise.

**Article 26**  
**REDUCTION IN FORCE**

**Section 1. General**

A reduction in force (RIF) will comply with all government-wide regulations in effect as of the effective date of this Agreement, and the provisions of this Agreement.

**Section 2. Avoidance of RIF**

A. To the extent that is practicable and not prohibited by law, and without interfering with the accomplishment of the CMD's mission, the Agency will resort to a RIF only after all other reasonable means of managing with the cause for considering a RIF have been exhausted.

B. To minimize the adverse impact on employees, CMD shall, whenever possible, accomplish the goals otherwise achieved by a RIF through attrition and cost reduction efforts before abolishing positions.

C. A copy of any cost study obtained by CMD associated with a RIF, will be provided to the Union and the Union shall be given an opportunity to provide comments at least 30 days before the RIF is announced.

**Section 3. Information to Be Provided to the Union**

CMD will notify the Union of any reduction in force as far in advance of notification to affected employees as is possible. The information to be provided to the Union will include:

- (1) The specific reasons why CMD considers a RIF to be necessary;
- (2) The competitive area in which the RIF will be conducted;
- (3) The competitive levels to be initially affected;
- (4) The number and work location of employees involved;
- (5) The retention registers that were created for the RIF;
- (6) The proposed effective date; and
- (7) All actions considered, adopted, or rejected by CMD before deciding to conduct a RIF, and the reasons for the adoption or rejection.

**Section 4. Information Provided to Employees**

A. If early retirement or buy-out opportunities are offered to employees prior to the issuance of RIF notices, the Agency will provide a briefing(s) for employees. Eligibility requirements, and the application processes will be explained. The effects of a buyout or early retirement on

severance pay, reemployment, and continued health insurance coverage will be presented. A representative of the CMD will take employee questions and attempt to provide immediate answers. If immediate answers cannot be provided, then answers to those questions will be distributed via e-mail to all employees who were invited to the briefing. In addition, the Agency will designate someone who will receive and respond to additional employee questions. A representative of the Union will be invited to attend these briefings, and will be given the opportunity to speak with the employees.

B. Within five (5) days of when specific RIF notices are distributed, CMD will provide a briefing(s) for the affected employees to explain the RIF process. The Agency will explain how RIF retention is determined, the scope of the particular reduction in force, employee placement opportunities, severance pay computations and services to employees who are designated for separation in the RIF. A representative of the Agency will take employee questions and attempt to provide immediate answers. If immediate answers cannot be provided, then answers to those questions will be distributed via e-mail to all employees who were invited to the briefing. In addition, CMD will designate someone who will receive and respond to additional employee questions.

## **Section 5. Employee Personnel Records**

### **A. Employee Verification**

As far in advance as possible of an anticipated RIF, CMD will notify employees of the need to review their Official Personal File (OPF) and ensure that these records are complete and accurate. This notice will advise employees to ensure that their records are up to date concerning:

- (1) Veterans preference;
- (2) Three most recent performance ratings of record received during the previous four-year period;
- (3) All periods of federal civilian and military service;
- (4) Completed training;
- (5) Current licenses and certifications;
- (6) Updated Resume.

B. The Agency will expeditiously resolve any discrepancies raised by the employee.

## **Section 6. Use of Vacant Positions**

### **A. Filling Vacancies**

In order to minimize displacement actions that would result from a reduction in force, the Agency will search for vacancies and offer lateral assignments to vacant positions that the

Agency otherwise intends to fill to employees who would otherwise be released from their competitive level.

**B. Restricting Outside Hiring**

CMD will not fill any vacant position in the bargaining unit through outside hiring or through promotion as long as there are employees facing separation in the RIF who are both qualified and available to fill that position.

**C. Waiving Qualifications**

CMD agrees to exercise all discretion granted by law and regulation to waive non-mandatory qualifications in order to place employees who are affected by the RIF in continuing positions.

**Section 7. Services to Employees Released in a RIF**

**A. Placement Offers**

(1) The Agency shall provide employees with all placement opportunities available under law and regulation.

(2) Employees who receive job offers will have a minimum of not less than one week for a local position, and 30 days for a position requiring relocation, to respond as to whether they will accept or decline the offer.

(3) Relocation of employees, occurring as a result of any action under the RIF, may be provided with relocation time (administrative leave or excused absence), reimbursement, and all other benefits provided by law, rule, regulation and/or which are within the discretion of the Agency.

(4) Employees reassigned to a different commuting area who relocate will be allowed up to 60 calendar days as necessary, to complete the move and report to work containing activity.

(5) The Agency will notify employees of the services available under its Priority Placement Program (PPP) and how to apply.

(6) The Agency will notify employees of the services available from other agencies under the Interagency Career Transition Assistance Plan (ICTAP) and how to obtain them.

**B. Unemployment Compensation**

CMD will refer employees to the appropriate Unemployment Insurance Agency to file a claim.

**C. Severance Pay**

The Agency will notify all employees who are separated in a RIF of their rights if any, to receive severance pay under law and regulation. If eligible, they will receive an estimate of the amount of severance pay and information on how these payments will be made.

#### **D. Employment outside the Agency**

For those employees who cannot be placed within CMD, the agency will provide resources to assist the employee in finding employment outside of CMD. This assistance will include, but is not limited to:

- (1) Resume writing;
- (2) Refer to employment related internet sites, e.g. [www.usajobs.gov](http://www.usajobs.gov) and [www.cpol.army.mil](http://www.cpol.army.mil);
- (3) Coaching in job search and interview techniques;
- (4) Assistance in obtaining copies of performance evaluations;
- (5) Reasonable duty time to attend local job interviews.

### **Section 8. Transfer of Function**

#### **A. Definition**

A Transfer of Function (TOF) means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already been performed in the other competitive area(s) affected. A TOF is also the movement of the competitive area in which the function is performed to another commuting area. In a TOF, the operation of the function must cease in one competitive area and must be carried on in an identifiable form in another competitive area where it was not being performed at the time of transfer.

#### **B. Notification to the Union**

When the Agency determines that a TOF is necessary, the Agency will inform the Union as far in advance as practicable, giving the reason for the action, the approximate number, types, and geographic location of the positions to be affected, and the approximate date of the action. At that time, the Union may initiate bargaining in accordance with Article 8, Mid Term Bargaining.

C. The Agency will identify which positions will transfer with the function in accordance with Office of Personnel Management regulations.

D. Employees whose positions have been designated as transferring with the function will be notified in writing. The notice will state that the employee is being offered the opportunity to volunteer for transfer with his or her position to a new competitive area. The notice will further state:

- (1) The name and location of the new competitive area;
- (2) They complete address of the new work site;

(3) The applicable salary, including locality pay, of the employee's position at the new work site;

(4) A statement that the employee is free to decide whether to accept the offer of the opportunity to volunteer for transfer with his or her position;

(5) A statement that should the employee be selected to transfer with his or her position, whether the employee is eligible for relocation expenses or other related benefits in accordance with statute and government-wide regulation;

(6) A statement that should the employee chooses not to transfer with his or her position, or if the employee is not selected to transfer despite having volunteered, the employee may be separated from his or her current position by adverse action procedures;

(7) The deadline for responding to the offer of transfer; provided that this date will be no less than thirty (30) days from the date of the notice.

E. If there are not enough qualified volunteers from among those affected employees, the Agency may solicit qualified volunteers from the rest of the current competitive area.

F. If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, preference will be given to the volunteers with the highest retention standing. In the event there are not enough volunteers for the transfer, employees may be selected for involuntary transfer.

## **Section 9. Additional Negotiations**

Nothing in this Article will prevent the Union or CMD from initiating additional negotiations when a reduction in force or transfer of function is announced.

## **Article 27** **MEDICAL DETERMINATIONS**

### **Section 1. Purpose**

Any requirement for an employee to undergo a fitness for duty examination or provide the Agency with medical documentation to support an absence of leave or a request for a work place accommodation will be requested and obtained in accordance with 5 CFR 339.

### **Section 2. Definitions**

For purposes of this Article, the following definitions apply:

“Accommodation” is reasonable accommodation as outlined in 29 CFR 1613.704.

“Medical conditions” is a health impairment which results from injury or disease, including psychiatric disease.

“Medical documentation or documentation of a medical condition” is a statement from a licensed physician or other appropriate practitioner who provides information the Agency considers necessary to enable it to make an employment decision. To be acceptable, the diagnosis or clinical impression must be justified according to established diagnostic criteria and the conclusions and recommendations must not be inconsistent with generally accepted professional standards. The determination that the diagnosis meets these criteria is made by or in coordination with a physician, or if appropriate, a practitioner of the same discipline as the one who issued the statement.

“Medical standard” is a written description of the medical requirements for a particular occupation based on a determination that a certain level of fitness of health status is required for successful performance.

“Physician” is a licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed service to conduct examinations.

“Practitioner” is a person providing health services who is not a medical doctor, but who is certified by a national organization and licensed by a State to provide the service in question.

### **Section 3. Exclusion**

The Parties agree that for short-term absences for purposes of attending to routine medical or dental appointments or medical absences of three (3) days or less, an employee will generally not be required to furnish medical documentation pursuant to 5 CFR 339 and the terms of Article 17 of this Agreement.

#### **Section 4. Ordered Medical Examinations**

All medical examinations ordered or offered pursuant to this Article shall be at no cost to the employee and performed on duty time at no charge to leave.

#### **Section 5. Union Representation**

If there are any formal discussions with any management official regarding a fitness for duty medical determination, the employee shall be entitled to Union representation. Prior to any discussion, the employee shall be notified of this right, given an opportunity to contact and discuss the matter with the Union representative, and be permitted the right of representation in such discussion.

#### **Section 6. Conditions Requiring Fitness for Duty Examinations**

A. CMD may direct an employee to undergo a fitness for duty examination only under those conditions authorized by this Article or in accordance with 5 CFR 339.301, Subpart C.

B. CMD may require an employee receiving worker's compensation benefits or assigned to limited duties as a result of an on-the-job injury to report for medical evaluation when CMD has identified an assignment or position (including the employee's regular position) which it reasonably believes the employee can perform consistent with the medical limitations of his or her condition.

C. When CMD directs a medical examination under the provisions of prevailing regulations and this Article, it shall inform the employee in writing of its reasons for directing the examination and the consequences of failure to cooperate. CMD shall designate the examining physician and shall offer the employee the opportunity to submit medical documentation to the designated Agency examining physician from his or her personal physician for review.

#### **Section 7. Conditions When Fitness for Duty Examinations May be Offered**

A. CMD may offer a medical examination when an individual has made a request for reasonable accommodation for medical reasons for a change in duty status, assignment, or working conditions or any other benefit.

B. When CMD offers a medical examination under the provisions of prevailing regulations and the procedures set forth in this Article, Section 6 C shall apply.

#### **Section 8. Medical Documentation**

A. Any medical documentation requested by CMD in order to make an informed management decision regarding an employee's performance, conduct or ability to remain in a position because of medical reasons, will be consistent as outlined in 5 CFR 339.104(a) through (g), Subpart A, as applicable.

B. CMD agrees that all medical information or documentation furnished by the employee to the Agency will be subject to the Privacy Act of 1974 (5 U.S.C. 552a) and disclosure will only be

made to those individuals who have a need to know in order to make informed management decisions regarding the employee's performance, conduct or request for an accommodation.

C. The employee will provide a signed release which will accompany all medical documentation. The release will identify who is authorized to review the medical documentation and for what purpose. Should further release be required, the Agency will inform the Union and the employee of the necessity for the release and secure written consent from the employee.

D. Any medical documentation that is provided to the Agency by an employee will be secured in a container that is only accessible to those officials who have authorization to review the documentation.

#### **Section 9. Inability to Perform Assigned Duties**

A. If CMD determines as a result of a fitness for duty examination or review of medical documentation that an employee is unable to perform his or her assigned duties as a result of a medical situation, CMD agrees to make a reasonable effort to reassign the employee to another position within CMD at the same grade for which the employee qualifies and can perform.

B. In the event a position at the same grade is not available, CMD will determine if other positions exist at a lower grade within CMD for which the employee qualifies and can perform the essential functions of the position. If a position exists, the employee will be notified of the availability of the position and given the opportunity to accept the position through a voluntary change to lower grade. If the employee accepts the position, pay will be fixed in accordance with this Agreement.

C. In the event a position cannot be located for the employee, CMD will notify the employee of his/her right to apply for disability retirement.

**Article 28**  
**TRANSIT SUBSIDY**

**Section 1. Purpose**

In order to reduce Federal employees' contribution to traffic congestion and air pollution and to expand their commuting alternative, the Department of Defense has implemented a Mass Transportation Benefit Program (MTBP) under Executive Order 13150.

**Section 2. Eligibility to Receive Transit Subsidy**

All CMD employees are eligible to receive a transit subsidy from the Agency. Currently, the Defense Language Institute Foreign Language Center (DLIFLC), U.S. Army Garrison Presidio of Monterey (USAG POM) and tenant activities are participating in the Federal Government's MTBP on a trial basis. Transit routes are subject to change based on rider participation.

**Section 3. Applying for Transit Subsidy**

Employees who wish to apply for the transit subsidy will complete an application online at [www.monterey.army.mil](http://www.monterey.army.mil), and submit that application to the appropriate management official. Available routes can be viewed online at this same web site.

## **Article 29** **Contracting Out/Privatization**

### **Section 1. General**

- A. CMD and the Union will cooperate and communicate to the maximum extent possible concerning Commercial Activities (CA) issues. CMD shall provide the Union, without charge, a list of all CA's affecting the bargaining unit, and who is performing the work, which shall be current as of the effective date of this Agreement.
- B. Management agrees to notify and consult with the Union regarding any anticipated review of a function for contracting out that could affect bargaining unit positions.
- C. The Employer will abide by all applicable laws, rules, and regulations concerning contracting out to include 10 USC 2467 and OMB Circular A-76.
- D. It is agreed and understood that disputes over the application of OMB Circular A-76 will be handled through the A-76 appeals process and will not be subject to the negotiated grievance procedures.
- E. CMD shall provide the Union and affected employees with on-going briefings during preliminary planning, the duration of the competition, and the post-competition transition phase. Such briefings will include but not be limited to:
  - (1) Update on actions between briefings;
  - (2) Action scheduled to take place prior to the next meeting;
  - (3) Tentative schedule for the entire A-76 review and/or other process;
  - (4) Identification of the employees' and Union's role in each action;
  - (5) Provision of all relevant documents, including any communication sent out to the group of prospective and/or real bidders.
  - (6) Electronic access to all documents made available to prospective and/or real bidders.

### **Section 2. Joint Participation**

- A. As provided in OMB Circular A-76 and/or other laws, CMD will provide, as a minimum but not limited to, the following: At the earliest possible stages, representatives of labor organizations, on the behalf of members of the bargaining unit, may participate in an advisory capacity on the Base Cost Comparison Steering Group (BCCSG). Management, employees, and their representatives should be engaged in a partnership to gather workload data and develop performance standards and recommendations for improved operational performance. Participation is permitted based upon the exchange of data, ideas, problems,

concerns, and solutions. This participation/consultation shall occur at least monthly as required by 10 USC 2467. Participation is not permitted in meetings where sensitive source selection information is discussed or when management decisions are made. Management retains the responsibility for all final decisions related to the PWS, QASP (or Performance Measurement Plan), Management Plan (includes MEO, QASO, Government Cost Estimate, etc.) and Technical Performance Plan.

B. The Employer shall notify the Union in writing when a contracting study is underway.

C. A Union representative will be permitted to participate in the “walk through” held for potential bidders.

### **Section 3. Information**

A. The Employer will provide to the Union in a timely manner copies of pertinent information relative to the contracting out, to the extent permissible under law, rule, or regulation. Any questions regarding requests for information or access to documentation will be jointly addressed by labor and management as soon as they arise.

B. Upon issuance, a solicitation used in the conduct of a cost comparison will be made available to the Union for comment. The Union will be given the opportunity to review the document and submit comments before the final receipt of offers from the private sector.

C. Briefing will be held with affected bargaining unit employees at appropriate intervals for the purpose of providing timely information concerning CA studies. The Union will be given the opportunity to participate in such briefings.

D. Any questions about information under this Agreement or requested by the Union will be discussed as soon as they arise.

### **Section 4. Appeals**

A. The Employer and the Union recognize the right of first refusal required by OMB Circular No. A-76 and its Supplement. Declining to exercise the right of first refusal due to displacement by contracting out shall not be deemed to be a waiver of any appeal grievance rights by a bargaining unit employee he/she may have under the applicable law, regulation, and this agreement.

B. The Employer agrees that, to minimize adverse effects on bargaining unit positions and employees affected by a contracting out decision, it will use attrition and restrict new hires to the maximum extent possible, to place affected employees in continuing positions.

### **Section 5. Bargaining.**

When the Employer determines that bargaining unit work will be contracted out or within 15 days of receipt of contract approval from higher headquarters, the Employer will notify the Union of the final decision on contracting out of work performed by bargaining unit employees. The Employer will extend an opportunity to the Union to meet and negotiate appropriate

arrangements for affected employees of the bargaining unit to the extent there are remaining issues not already bargained.

## **ARTICLE 30** **EMPLOYEE ASSISTANCE PROGRAM**

### **Section 1. Policy**

The Agency has established an Employee Assistance Program (EAP) and this service is available to all employees at no cost. EAP is a voluntary, confidential, professional resource that is provided by the Agency. EAP, with a staff of counselors, psychologists, attorneys and other helping professionals, can help employees and their family members resolve personal problems. Therefore, it is the policy of CMD and the Union to encourage troubled employees whose performance and conduct are adversely affected to seek counseling assistance or medical treatment.

### **Section 2. Employee Assistance Program**

A. The EAP services provided by the Agency will consist of the following:

- (1) Confidential, free, short-term counseling to identify and assess problem(s) and help employees in problem solving;
- (2) Referral, where appropriate, to a community service or professional resource that provides treatment and/or rehabilitation;

B. Supervisors should offer the availability of the EAP to employees who are experiencing situations that have adversely affected an employee's performance and conduct.

C. CMD will publicize and post information regarding the EAP in those areas that are frequented by employees such as break and lunch rooms, bulletin boards, etc.

### **Section 3. Voluntary Participation and Employee Responsibility**

Prior to leaving the work place to meet with an EAP counselor, the employee must inform his or her supervisor and make appropriate arrangements for the absence. Employees who do not want their supervisors to know of their attendance must make arrangements for EAP appointments outside of duty hours or request leave in accordance with Article 17 of this Agreement for appointments during duty hours.

### **Section 4. Confidentiality of the Program**

A. The parties recognize that all confidential information and records concerning an employee's counseling and treatment through the EAP will be maintained in accordance with The Privacy Act of 1974 (5 U.S.C. 552a).

B. Without an employee's specific written consent, the Agency may not obtain information about the substance of the employee's involvement with the EAP. The EAP staff will provide

the employee with a written notice concerning the confidential nature of EAP records along with the conditions where information discussed in counseling may be disclosed.

**Section 5. Confidentiality and its Relationship to Unacceptable Performance, Disciplinary and Adverse Action**

A. Any information obtained from the EAP with the employee's authorization may not serve as the basis for disciplinary or adverse actions unless required to enforce the law or terms of last chance agreements; see Article 12, Disciplinary and Adverse Actions.

B. If an employee receives a proposed disciplinary or adverse action, and the employee notifies CMD for the first time that

(1) the employee has a substance abuse problem that significantly contributed to the misconduct;

and

(2) the employee is seeking the services of the EAP; management will consider placing the proposed action in abeyance while the employee undergoes treatment under terms and conditions agreed to by the employee. This provision only applies in the first instance of substance abuse and does not apply if severe, egregious or criminal misconduct is involved.

C. If a decision is made by CMD to hold an action in abeyance in accordance with Section 5 B above, and there are no further instances of related performance or conduct problems at the end of the specified period, CMD will consider rescinding and closing the pending the action.

D. Should the employee violate any terms of the agreed upon conditions or is involved in additional misconduct during the abeyance period, the proposed action will continue to be processed in accordance with the procedures outlined in 5 CFR 752 and Article 12 of this Agreement.

**Article 31**  
**TRAVEL/TEMPORARY DUTY (TDY)**

**Section 1. General**

A. The Parties recognize that employees may be required to perform travel away from their official duty station. Travel is either local travel (i.e., travel within the commuting area) or to a temporary duty (TDY) location outside the official duty station or commuting area where the employee is authorized to travel.

B. A travel order is required for all TDY travel, except when the employee does not stay overnight or does not use a common carrier or the travel does not exceed 12 hours. A travel order is necessary even if the employee will be a passenger and does not plan to claim any expenses. Reimbursement for applicable, authorized local travel expenses, such as for mileage, tolls, or parking, may be claimed through the Defense Travel System (DTS).

**Section 2. Government Travel Cards**

A. Bargaining unit employees who are frequent travelers will be expected to use a Government Travel Credit Card (GTCC) for official travel expense if they are otherwise eligible for a GTCC. GTCCs may only be used for authorized purchases and advances made in conjunction with TDYs. Employees will be subject to disciplinary action for unauthorized use of the GTCC.

B. Credit card debts may be paid by split disbursement with the government forwarding the amount indicated by the employee in DTS directly to the vendor. Any amount of reimbursement due in excess of that paid to the vendor will be remitted to the employee via electronic funds transfer. Employees will be responsible for timely payment of all travel card charges.

C. The employee will report a lost or stolen Travel Card within 24 hours. Employees will be responsible for those valid charges made before the travel card was reported lost or stolen.

D. When an employee is required to apply for a GTCC, subject to laws and regulations, the results of a credit check will not adversely affect the employee's performance evaluation or desirability for employment. Information obtained will be considered highly confidential and will be safeguarded from improper use. Access to information obtained will be limited to authorized individuals on a "need to know" basis.

**Section 3. Reimbursement for Travel Expenses to TDY Locations**

A. In accordance with Public Law 104-134, the Agency will reimburse employees for travel expenses through electronic funds transfer (EFT). Employees must submit a travel claim through DTS within five workdays after completion of the travel or every 30 days if the employee is on continuous travel status.

B. Except in situations described in Section 1 of this Article, employees must have an approved travel order before incurring any travel expenses for travel to a TDY location.

C. Travel arrangements must be made in accordance with DoD Joint Travel Regulations, including the use of specified agents or systems for airline and other travel reservations.

#### **Section 4. Compensation for Travel**

A. Employees traveling on official business will perform such travel and be compensated for it in accordance with DoD Joint Travel Regulations, the Fair Labor Standards Act (when applicable), and other applicable laws, currently in force.

B. The parties recognize that not all time spent traveling is compensable.

#### **Section 5. Scheduling Travel**

When feasible, employees' TDY travel is scheduled during their basic workweek. It is recognized that situations may develop when the employee will be required to travel away from his/her official duty station outside his/her regularly scheduled work hours.

#### **Section 6. Selection of Employees for TDY**

The Employer will select employees for TDY on a fair and equitable basis, among those employees the employer has determined are qualified.

#### **Section 7. Mode of Travel**

A. Employees are expected to travel using the method of transportation that is most advantageous to the Government as determined by the Agency.

B. Employees may request and may be authorized to use privately owned vehicles (POV) for official travel. When the Agency determines that it is advantageous to the Government for the employee to use his/her POV, the employee will be compensated at the applicable mileage rate established by the JTR.

C. Employees may be authorized to use taxis, shuttle services, or other courtesy transportation for local and TDY travel in accordance with applicable law, Government-wide rule or regulation and the DoD Joint Travel Regulation.

#### **Section 8. Emergencies While TDY**

When an employee becomes incapacitated by illness or injury, not due to the employee's own misconduct, which interrupts or discontinues his/her TDY travel assignment, the employee must notify his/her supervisor immediately and request approval for early return travel. The employer will provide transportation when possible and authorize payment for travel to the extent possible under applicable laws and regulations.

#### **Section 9. Retention and Use of Frequent Flyer Miles**

In accordance with Public Law 107-107 (the National Defense Authorization Act for Fiscal 2002, S. 1438), employees may retain and use frequent flyer miles earned on official Government travel.

**Article 32**  
**PARKING**

**Section 1. Employee Parking**

The Parties recognize that employee parking is limited and is available on a first-come first-serve basis.

**Section 2. Disabled Employee Parking**

Disabled employees may park in handicapped parking places in any lot. Handicapped spaces are designated by a handicap logo, and may only be occupied by vehicles displaying a license plate, decal, or sign with a handicap logo.

**Article 33**  
**EFFECTIVE DATE AND DURATION OF AGREEMENT**

**Section 1. Effective Date**

This Agreement shall take effect from the date it is approved by the Department of Defense or as stated in 5 USC 7114.

**Section 2. Duration**

This Agreement shall remain in full force and effect for three (3) years from its effective date. This Agreement shall automatically renew itself from year to year thereafter.

**Section 3. Renegotiation**

If either party desires to renegotiate any terms of this Agreement, it will furnish written notice to the other party, identifying the Articles that it wishes to change, not more than one hundred and twenty (120) days or less than ninety (90) days prior to the expiration date.

In the event such notice is given by either party, the parties will begin negotiating ground rules for the new negotiations within sixty (60) days from the date of receipt of notice of the proposed changes. If negotiations are not completed by the anniversary date, the Agreement will be automatically extended until a new agreement is negotiated.

**Section 4. Reopener**

Either party may propose negotiations during the term of this Agreement to reopen, amend, or modify this Agreement, but such negotiations may be conducted only by mutual consent of the parties. Such negotiations shall be conducted in accordance with Article 8, (Mid-Term Bargaining).

**Section 5. Amendments and Modifications**

This Agreement may only be amended, modified, or renegotiated in accordance with the provisions of this Agreement.

**Section 6. Copies of the Collective Bargaining Agreement**

CMD will make 150 copies of the Agreement initially and will provide Local 1263 with 50 copies. CPAC will distribute a copy of the Agreement at new employee orientation. CMD will provide every bargaining unit employee and management official with a copy of the Collective Bargaining Agreement.

**Appendix A**  
**CALMED DETACHMENT**  
**LOCAL 1263**  
**OFFICIAL TIME REPORT**

NAME:
UNION POSITION:
DATE:
TIME DEPARTED:
TIME RETURNED:

(Check Appropriate Activity)

BA  NEGOTIATIONS & MID TERM NEGOTIATIONS

BD  ONGOING LABOR-MANAGEMENT RELATIONSHIP

BK  GRIEVANCE AND APPEALS

REMARKS:

SIGNATURE OF UNION REP:

SUPERVISOR'S INITIALS:

NOTE: Upon completion of representational duties, the supervisor will forward this signed form to the CMD time keeper, who will forward to CPAC Labor Relations Division.

CALMED Form  
01 Apr 09

In witness whereof the Parties hereto have executed this Agreement on this 30th day of OCT, 2009.

Jean M. Santry  
Jean M. Santry, NR, Chief Negotiator  
AFGE District 12

Philip A. White  
Philip A. White, PhD President  
AFGE Local 1263

Helen D. Macaraeg  
Helen D. Macaraeg, Steward  
AFGE Local 1263

Angela D. Valdez  
Angela D. Valdez, Steward  
AFGE Local 1263

Terrence C. Messenger  
Terrence C. Messenger, Chief Negotiator  
Labor Specialist

Daniel H. Jimenez  
Daniel H. Jimenez  
COL, MS, Commanding

Michael L. Halperin  
Michael L. Halperin, Esq.  
Senior Labor Counsel

Donald D. Tompkins  
Donald D. Tompkins  
Chief, Clinical Support Division